

Published by Nhimbe Trust | NPAAC

84 Fort Street Canberra Building

Bulawayo, Zimbabwe

Tel: +263-9-60002/60019 | info@nhimbe.org

Nhimbe Trust | NPAAC © 2012

Research team: Florence Mukanga-Majachani, Pathisa Nyathi, Stephen Chifunyise, Dr. Jacob Mapara, Nehemiah Chivandikwa, Eric Mazango, Ngonidzashe Muwonwa and Dr. Shumirai Nyota.

Content director: Josh Nyapimbi

Editor: AmaBooks

Design and layout: multimedia Box www.multimediasbox.tv

Every effort has been made to ensure that the information contained in this book is complete and accurate and to trace copyright holders to obtain permissions for the use of copyright material. All contacts and web addresses were checked to be current and functioning at time of publication.

The publisher apologises for any errors, omissions or outdated contacts and web addresses and would be grateful if notified of any corrections that should be incorporated in future reprints or editions of this book.



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Swiss Agency for Development and Cooperation SDC

State Secretariat for Economic Affairs SECO



Research on Legal Instruments on Arts & Culture in Zimbabwe

FOREWORD

Stephen Chifunyise

The process of effectively transforming the arts and culture sector in Zimbabwe requires the production, through research, of a body of evidence on the challenges being faced by arts and culture practitioners and activists on the one hand, and by those involved at different levels in managing cultural governance structures and in policy formulation on the other hand.

There have been calls for loud voices from practitioners in the arts and culture sector concerning the challenges that hinder their efforts to grow the sector and to generate viable and sustainable cultural and creative industries. Compared to stakeholders and players in other sectors of development, those in the arts and culture sector have been regarded as having potent voices to articulate what is not working in their sector and what needs to be done, but as not having used their voices. These, so far silent, voices of arts and culture practitioners and activists can only make effective 'noises', in lobbying and advocating for change in approaches to motivating, promoting, enhancing and facilitating the growth and development of the arts and culture sector, if they are adequately knowledgeable of the real issues that constrain their efforts and undermine their committed drive to growing sustained viability of the sector.

Policymakers and managers of cultural institutions who are critical regarding cultural governance issues, and who have the important task of turning challenges that hinder the growth and viability of the arts and culture sector to positive and impacting instruments for the development of the sector, need to be made constantly aware of the identified challenges through regular evaluative and monitoring research that produces evidence-based knowledge and pointers to possible solutions.

This compendium of research on legal instruments on arts and culture in Zimbabwe is a demonstration of the awakening of the creative civil society in Zimbabwe and of its first steps in obtaining evidence-based knowledge about the challenges being faced by practitioners in the arts and culture sector, which should equip them for the task of lobbying and advocating for action that will transform the capacity of public institutions and stakeholders in the arts and culture to achieve the objective of growing a viable sector.

Although the research, undertaken by prominent arts and culture practitioners and activists, was mainly intended to produce essential material data needed for the effective lobbying and advocacy campaigns contained in the National Plan of Action on Arts and Culture of the Zimbabwe Creative Civil Society (NPAAC), it is also vital material and data for policymakers and those responsible for organs of cultural governance in Zimbabwe. Response to the findings and recommendations of the researchers should be considered as critical discourse on cultural policy and all legal, fiscal and administrative measures and actions that impact on the potential and capacity of the arts and culture sector to contribute effectively to sustainable development.



Summary of Recommendations

- All departments and parastatals dealing with arts and culture should be brought together into one ministry
- All departments and parastatals dealing with arts and culture should work together to formulate a national cultural policy
- All statutory cultural institutions should be open to public scrutiny, their boards should be accountable to stakeholders in the arts and culture sector and appointments to those boards should be of people with expertise and experience in the arts and culture pertaining to that institution
- A structure should be created for national consultation on cultural governance, consisting of representatives from government, statutory cultural institutions, local authorities and creative civil society
- A national arts and culture fund should be established
- All acts and statutes that relate to arts and culture, as well as relevant UNESCO conventions, should be translated into all the country's indigenous languages
- All acts and statutes that relate to arts and culture should adhere to UNESCO conventions, as well as to African Union and SADC instruments
- Complainants about Broadcasting Services Act issues should have the right of appeal to the courts of the land; the minister's office should not be the final platform of appeal
- The airwaves should be opened up to allow more broadcasters
- The period of holding a broadcasting license should be raised to at least five years
- International funding of broadcasting stations should be considered, including from Zimbabweans in the Diaspora
- Education and awareness raising should take place about UNESCO conventions
- A comprehensive national cultural heritage policy should be formulated
- National committees should be established on the protection of cultural and natural heritage and on cultural diversity, to include members of creative civil society
- Annual consultative meetings should be held about the state of World Heritage Sites in Zimbabwe and about adherence to UNESCO conventions
- Information about international funding assistance available under various conventions should be advertised



Research on Legal Instruments on Arts & Culture in Zimbabwe

- One statutory cultural institution should be designated as being responsible for issues to do with the protection of cultural property
- National contact points on issues to do with UNESCO conventions should be clearly identified
- An urgent review of the National Arts Council Festival Guidelines is imperative to incorporate the experiences of those involved in the arts and culture sector
- The Festival Guidelines should be redrafted to ensure that they encourage arts entrepreneurship and interest in arts and culture, rather than the emphasis on policing
- The National Arts Council should encourage the proliferation of arts and culture activity, including festivals as they are cultural spaces for citizen participation – spaces for meeting and debating about communal issues
- The National Gallery of Zimbabwe Act should be repealed and replaced with one that gives more space to the functions of the Gallery, and less to the establishment and constitution of the Board
- The new National Gallery of Zimbabwe Act should provide for the training of artists in various art genres
- The new National Gallery of Zimbabwe Act should involve a parliamentary committee in identifying people to be appointed to the Board
- The amendment of the National Arts Council (NACZ) Act should await completion of the new national constitution and the national cultural policy so that the amended Act incorporates aspects from the two documents
- Participation and consultation should precede the drafting of a new act/amendment of the NACZ Act so that views and expertise of stakeholders are taken on board
- Constant review should be incorporated into the NACZ Act to avoid it becoming obsolete. World trends in the arts should be kept track of
- The NACZ Act should be amended to ensure that it is aimed at growing vibrant and viable cultural industries. Policies and arrangements available to general industry/investment should be availed to the cultural industries
- The amended NACZ Act should take on board the following critical elements that impinge on the enabling environment that will ensure the growth and development of the arts and cultural industries: funding and financing; infrastructure development and maintenance; intellectual property regime (matters of copyright and infringement of same and related corrective measures); the media; institutional capacity building; research and documentation; promotion/awareness raising; coordination and integration; regulation and standard setting.



Contents

| | | |
|--|-----------------|----|
| Cultural Governance in Zimbabwe Florence Mukanga-Majachani | Summary | 6 |
| | Research Report | |
| Broadcasting Services Act Dr Jacob Mapara and Dr Shumirai Nyota | Summary | 22 |
| | Research Report | |
| Implementation of UNESCO Conventions in the Field of Culture Stephen Chifunyise | Summary | 49 |
| | Research Report | |
| Censorship Act and its Application to the Arts and Culture in Zimbabwe (Chapter 10:04) Eric M. Mazango | Summary | 30 |
| | Research Report | |
| National Arts Council Festival Guidelines: Applications to and Implications for the Arts and Culture Sector Nehemia Chivandikwa and Ngonidzashe Muwonwa | Summary | 69 |
| | Research Report | |
| National Gallery of Zimbabwe Act Jacob Mapara and Shumira Nyota | Summary | 84 |
| | Research Report | |
| Review of the National Arts Council of Zimbabwe (NACZ) Act (CAP:25:07) Pathisa Nyathi | Summary | 87 |
| | Research Report | |



Cultural Governance in Zimbabwe (Research report by Florence Mukanga-Majachani)

Summary

INSTITUTIONAL FRAMEWORK

Although at independence a Ministry of Education and Culture was created, the arts and culture sector remained scattered across a number of ministries and that state of affairs has been sustained as follows:

1. Ministry of Education, Sport, Arts and Culture

(the Arts, National Arts Council of Zimbabwe, National Gallery of Zimbabwe, National Library and Documentation Services)

2. Home Affairs

(Museums and Monuments, National Archives, Censorship Board)

3. Local Government, Urban and Rural Development

(Traditional chiefs and Chiefs council)

4. Justice and Legal Affairs

(Copyrights)

5. Higher and Tertiary Education

(UNESCO and arts teachers' education)

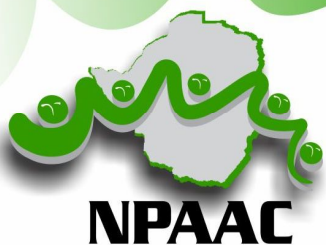
6. Environment and Natural Resources Management

(Natural heritage sites)

7. Information, Media and Publicity

(Audio-visual industries, broadcasting and national galas)

8. Tourism and Hospitality



(heritage tourism)

9. Medium and Small Industries

(National Handicrafts Centre)

10. Agriculture

(National Herbarium)

11. Foreign Affairs

(Cultural Diplomacy)

FINDINGS

1. There are no structures or committees put in place by government to harmonise the activities of government departments and parastatals in ministries with arts and culture and their positions on international cultural matters and developments
2. The absence of structures to relate to all institutions that are responsible for cultural functions has led to a failure in the conception and formulation of a comprehensive national cultural policy
3. Government's 2010 proposals for the restructuring of parastatals in order to improve service delivery have not been implemented in the arts and culture sector
4. Appointment to Boards of parastatals with arts and culture responsibilities are made as a form of political favour
5. Boards of parastatals in the arts and culture are not accountable to the arts and culture stakeholders and are not open to public scrutiny
6. Parastatals or statutory bodies with arts and culture mandates are inclined more towards regulation than development and promotion of arts and culture
7. Parastatals or statutory bodies with arts and culture mandates are more of a political structure of the government than 'arms length' organisations
8. Most national arts and culture statutory bodies and government departments that manage arts and culture remain constrained by lack of funding
9. The process of registering with the National Arts Council of Zimbabwe is complicated and tends to discourage artists and their associations from registering with the statutory body



Research on Legal Instruments on Arts & Culture in Zimbabwe

10. Some policies adopted by parastatals, such as NACZ's festival guidelines, are not developing the arts and culture sector but are presenting more challenges to the sector
11. The fragmentation of the governance structures has made it difficult to harmonise creative industries policies and strategies aimed at improving these industries.
12. Fragmentation of governance structures has led to the duplication of structures of ministries with arts and culture functions at district and provincial levels, which have no budgets to fund their activities

RECOMMENDATIONS

1. Bringing together all departments and parastatals dealing with arts and culture under one ministry
2. Getting all departments and parastatals with arts and culture responsibilities to work together in formulating a comprehensive national cultural policy
3. Creation of a national arts and culture fund
4. Appointment to Boards of statutory cultural institutions people who have the expertise and experience in arts and culture of concern to the statutory bodies
5. Making all boards of statutory cultural instruments accountable to stakeholders in the arts and culture sector
6. Making all statutory cultural institutions open to public scrutiny
9. Creation of a structure for national consultation on cultural governance in Zimbabwe attended by representatives of the creative civil society, government departments, statutory cultural institutions and local authorities
10. Creation of a committee or a platform for government departments and statutory institutions to take common stands on policy issues and to develop a common stand on international developments
11. Review the policy on the registration of arts and culture associations by NACZ



Historical perspective of cultural governance in Zimbabwe

Colonial Era

Background

The seizure and annexation of Zimbabwe in the 1890s by the administration of the British South Africa Company marked the beginning of the colonial era in Zimbabwe's history. Many cultural traditions that had existed in pre-colonial Zimbabwean societies were suppressed in favour of Western influences and cultures. The colonial government was more concerned with promoting white minority culture at the expense of black traditional culture.

Arts and culture policies and legislation were designed in such a way that they segregated blacks and favoured the minority culture of the whites. The colonial government's domestic policy was of discrimination and exclusion of blacks and their indigenous cultural beliefs.

National Arts and Culture Institutions

The colonial government made use of national institutions to govern arts and culture. National arts and culture institutions were run by government and party faithfuls, who were not accountable to the nation's populace. Such institutions included the National Gallery and the Rhodesian Art Foundation. The Gallery was conceived as a national institution acting as the artistic representative not only for Southern Rhodesia, but also Northern Rhodesia and Nyasaland, governed from 1953 to 1963 as a united federation. Salisbury City Council agreed to take full responsibility for overseeing the building, establishment and administration of the Gallery and the Mayor of Salisbury was made a fixed appointee to the Board of Trustees. In its early days it showcased European Art. For instance, when it was officially opened, it was exhibiting around 200 artworks loaned from European galleries such as the Tate Gallery in London and the Louvre Museum in Paris.

The white populace also created institutions such as the National Theatre Organisation, which was an offshoot of the Southern Rhodesia Dramatic



Research on Legal Instruments on Arts & Culture in Zimbabwe

Association, founded in 1954 to promote the development of theatre. In 1973 it commissioned a report to explore the state of the arts in Rhodesia. The report discussed at length choral societies, orchestras, eisteddfods and ballet schools – exclusively white forms of the arts – and left behind the activities of black people.

The government made little provision for blacks to set up their cultural institutions and bodies. White sponsorship of black arts hinged on the condition that they accepted white leadership and that their works were non-political.

However George Jackson's report entitled *The Land is Bright* bemoaned lack of government funding even for white people's arts and culture activities.

Despite lack of funding, black people established their arts institutions and organisations, especially those in theatre, for example the Wankie Dramatic and Choral Society.

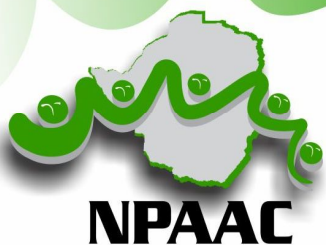
From Independence to Present Day

From the attainment of independence in 1980 the government shifted policies of exclusion of the black person's culture from public presentation. It was a natural expectation that the new government would adopt democratic institutions and practices that promoted black culture, which was subverted during the colonial era.

At independence, the new government created a Ministry of Education and Culture, which was responsible for administering arts and culture. The cultural component was, however, quickly moved to the Ministry of Youth, Sport, Culture and Recreation in 1981. The newly created Department of Culture struggled to fit in the new ministry that had become engrossed in implementing youth programmes, which were an important instrument for strengthening the ruling party's political structures.

The Department of Culture did not manage all aspects of arts and culture. Some vital wings of culture were scattered in other ministries.

- Museums and Monuments Commission, the National Archives and the Censorship Board were managed under the Ministry of Home Affairs;
- the audio visual services had remained with under the Ministry of Education;
- audio-visual industries and broadcasting institutions were managed by the Ministry of Information and Broadcasting;



Research on Legal Instruments on Arts & Culture in Zimbabwe

- Traditional chiefs and the Chiefs Council were in the Ministry of Local Government;
- The Ministry of Legal Affairs was responsible for copyright issues, and
- The Ministry of Higher and Tertiary Education was responsible for teacher education and UNESCO.

This is still the situation with cultural institutions – they remain scattered across many different ministries.

A cabinet reshuffle in early 1990s saw the return of the Department of Culture to the Ministry of Education. Chifunyise (2011) narrates that after the return,

'the Department of Culture found itself spending a long period of time trying to relate to new administrative structures that were dominantly focused on the education function and which at provincial level could not provide leadership to the provincial cultural officers who had moved back to the ministry. The return of the culture function to the Ministry of Education was seen by senior officers in education at the district and provincial level as indication that it was an insignificant function which could not be accommodated and whose return was to burden the all important education function. Just as there had been resistance to the introduction of cultural and sports education into the formal school curriculum, most of what the Division of Culture was advancing was not considered essential to achieve dominant objectives of education that the ministry was expected to achieve.'

In 1994, a new Ministry of Sports, Recreation and Culture was established. This ministry had to oversee some of the responsibilities around arts and culture.

In 1998, the cultural and sport functions of this ministry were merged with the Ministry of Education to create the Ministry of Education, Sports and Culture. Again in this ministry, arts and culture remained overshadowed by 'important' sections such as sports and education. In 2009, the Global Political Agreement brought about a government of national unity and the establishment of the Ministry of Education, Sport, Arts and Culture. Following that, the importance of a fully-fledged administrative structure for Sport, Arts and Culture was recognised by the appointment of a Principal Director for sport, arts and culture, a Director for arts and culture, and a Director for sport. This led to appointment of arts and culture officers at provincial and district level, even though some of these were teachers transferred to sport, arts and culture functions. According to Mr Mutuvira, who is the current Director of Culture, the Department was created as a



Research on Legal Instruments on Arts & Culture in Zimbabwe

result of a realization of the importance of the creative economy and the contribution of creative industries to the economic well-being of many countries.

National Cultural Institutions and Parastatals

After independence, white cultural institutions, which had been created during the colonial era to foster and promote the development of white cultures such as the National Theatre Association, responded to the new government policies of reconciliation with caution.

The new government maintained some of the parastatals created during the colonial era, such as the National Gallery of Zimbabwe and the Censorship Board.

Current state of cultural governance structures in Zimbabwe: Characteristics

Fragmentation

At national level, the governance of arts and culture activities in Zimbabwe is segmented to the following ministries: Education, Sport, Arts and Culture (the arts, arts education, the National Arts Council, the National Gallery, the National Library and Documentation Services), Home Affairs (Heritage sector – Museums and Monuments, National Archives, Censorship Board), Justice, Legal and Parliamentary Affairs (copyright legislation), Information and Publicity (audio-visual industries – broadcasting, TV, film and music recording industry), Local Government (Chiefs and local authorities), Medium and Small Enterprises industries (national handcrafts centre), Environment and Tourism (cultural tourism), Higher and Tertiary Education (UNESCO and arts teacher education), Environment and Natural Resources Management (natural heritage sites), Health and Child Welfare (ZINATHA, traditional midwives), Agriculture (herbal medicine, Indigenous Knowledge Systems – indigenous varieties) and Foreign Affairs (Cultural Diplomacy).

However, the Ministry of Education, Sport, Arts and Culture remains the main government ministry that draws national cultural policies. This is done in consultation with the Department of Arts and Culture that was established in 2007. However, an interview with Mr Mutuvira, who is currently a Director working in the Department of Arts and Culture, revealed that this department hardly works in collaboration with departments and parastatals managed by other ministries with an arts and cultural mandate. In fact, up to date, there is no



structure or committee put in place by the government to harmonise the activities of these departments.

The absence of structures to relate to all institutions and departments that are responsible for some cultural functions, has led to efforts of conceiving and formulating a national cultural policy to be ineffective. Most of the initiatives made by the Ministry of Education, Sport, Arts and Culture are clearly not national and cannot be presented to Cabinet and other ministries with responsibilities for culture.

Parastatals

The various ministries that have an arts and culture mandate have parastatals that help to manage arts and culture. By definition these are quasi-government institutions, which are partly or wholly owned by the government. Below is a list of some of the parastatals created by the government to administer arts and culture:

1. National Handicraft Centre

The mission statement of the National Handicraft Centre (NHC) is to be the leading supplier of quality craft for export and for sale in Zimbabwe through relating directly with crafts people and to alleviate poverty through fair trade. It is managed by the Ministry of Small and Medium Enterprises.

2. National Arts Council of Zimbabwe

The National Arts Council of Zimbabwe (NACZ) is a statutory body that was set up by an Act of Parliament in 1985. Its major task is to spearhead the promotion and development of the arts in Zimbabwe. NACZ co-ordinates and supports the development of the arts and cultural activities. NACZ's statutory mandate is to foster, develop and improve the knowledge, understanding and practise of the arts in Zimbabwe by encouraging the teaching and practise of the arts and their presentation, performance, execution and exhibition to the public. It is managed under the Ministry of Education, Sport, Arts and Culture.

3. National Museums and Monuments of Zimbabwe

This statutory body acts in accordance with the National Museums and Monuments Act 1972.



Research on Legal Instruments on Arts & Culture in Zimbabwe

4. National Gallery of Zimbabwe

The National Gallery of Zimbabwe is a statutory body that was set up by the National Gallery Act of 1953. It was officially opened to the public in 1957. It is currently managed under the Ministry of Education, Sport, Arts and Culture.

5. Censorship Board

This structure was inherited from the colonial government. It was first established in 1932 by the Entertainments Control and Censorship Act. Their main functions at that time were confined to the scrutiny of films and film advertisements. Its functions have evolved over time with the modifications and updating of this piece of legislation in 1967, 1974 and 1996, when it became Chapter 10:04. It is currently managed by the Ministry of Home Affairs.

All these institutions are managed by various Boards, put in place by Ministers responsible for the various ministries where they belong. For instance:

- *According to the National Arts Council of Zimbabwe Act section 4(1), The Board shall consist of—*

(a) ten members appointed by the Minister of whom—...

- *According to the National Gallery of Zimbabwe Act section 5 (1), The Board shall consist of not less than five and not more than eleven members who shall be appointed by the Minister after consultation with the President and in accordance with any directions the President may give him.*

- *According to the National Museums & Monuments of Zimbabwe Act section 5 (1) Subject to subsection (2), the Board shall consist of such members, being not less than five in number, as may be appointed by the Minister after consultation with the President and in accordance with any directions the President may give him.*

- *According to the Censorship and Entertainment Act section 3 (1) The Minister shall appoint a board, to be known as the Board of Censors, to perform the functions entrusted to it under this Act.*

As clearly outlined above, all parastatal Boards are appointed by Ministers, which Ministers are government appointees with political affiliations. This makes most of the Board members, if not all of them, to be also close to the ruling party. Their allegiance belongs to the ruling party. These parastatals are more of a political



Research on Legal Instruments on Arts & Culture in Zimbabwe

structure of the government than 'arm's length' organisations. They are in fact statutory bodies and as such they are inclined more towards regulation than the development and promotion of arts and culture.

Each Ministry works closely with parastatals under it to manage arts and culture and to implement arts and cultural activities at the national level. However, there is little proper coordination of these parastatals and government departments, which are managed by different ministries, so they hardly work together. It is only in rare cases that these parastatals work together in implementing arts and culture programmes – their day to day business is conducted independently of each other. Most of parastatal cooperation is between those that are managed under the same ministries, for instance the National Arts Council of Zimbabwe and the National Gallery of Zimbabwe. In an interview with the researcher one of the Gallery employees confirmed that he has never worked with the National Handicraft Centre, though he has co-implemented projects with the National Museums and Monuments of Zimbabwe.

In 2010, the Cabinet approved draft proposals for the restructuring of parastatals in order to improve service delivery. However very little progress is being made in this regard.

Budgetary Constraints

Most of the national arts and culture institutions, including parastatals and government departments that manage arts and culture, remain constrained by lack of funding. This affects the conception and implementation of national arts and culture strategies aimed at developing the sector. The sector does contribute significantly to the National Economy but there is no art fund created to develop it. It still lags behind departments such as sports, which has a government initiated sport development fund. This has always been the case, especially with the Department of Culture, since independence. Chifunyise, commenting on how lack of government funding has affected the cultural policy making process since independence, says,

'Without a budget that can fund the hosting of consultative meetings, the Department of Culture found itself concerned with developing provincial and district structures that would enhance its status even if these replicated what other ministries with culture responsibilities had created – structures such as district and provincial arts councils, sports councils and youth councils did not only replicate grassroots structures but did not have budgets to fund their activities and secretariats of the structures at both district and provincial levels.'



Research on Legal Instruments on Arts & Culture in Zimbabwe

For more information about current budget allocations for arts and culture please see annex 1.

National Associations

Besides government institutions, the arts and culture sector has also organized itself to form governance structures at national level in the form of arts and culture associations. These associations must be registered by the National Arts Council of Zimbabwe in order for them to be recognized as legitimate. The process of registering with the NACZ is not an easy one and, in some cases, it ends up discouraging artists and their associations from registering with the parastatal. Below is a list of some of the associations that exist in Zimbabwe:

- Arterial Network Zimbabwe: A multi-disciplinary association, which was launched in 2010 to advance the state of Zimbabwean creative industries. It is a local chapter of a Pan-African association based in Cape Town.
- Coalition against Censorship in Zimbabwe (CACZ), Zimbabwe Theatre Association (ZiTA), Bulawayo Arts Forum (BAF), Visual Artists' Association Bulawayo (VAAB)
- Zimbabwe Music Rights Association
- Zimbabwe Union of Musicians
- Zimbabwe Applied Arts and Crafts Association
- Zimbabwe Women Writers Association



Strengths and weaknesses of the current governance structures

Impact of the present governance structures on cultural/creative industries:

Researcher's perspective

- Policies adopted by parastatals such as the National Arts Council of Zimbabwe, for example the festival guidelines, should be aimed at developing the sector rather than presenting more challenges to it. While it is much appreciated that regulating the sector to an international standard, which is crucial especially as it protects artists from unscrupulous promoters, this should be done in such a way that it does not impede the development of the sector. A curator from the National Gallery of Zimbabwe indicated that some of the regulations that are adopted by parastatals hinder cultural exchange and discourage cultural diversity. If this nation wants growth and promotion of cultural exchange programmes, which are aimed at benefitting local artists, then they should revise some of the water-tight regulations that have been put in place, such as the festival guidelines.
- The management of parastatals should be transparent. My understanding is that parastatals are run by government to advance special national, social and economic interests of the public. Their mandate must be focused more on serving the common good of the nation and those appointed to manage them or serve on their Boards should be highly competent – the best among those available and not friends and relatives of the ruling party. Appointments should not be made as a form of political favour and those appointed must be accountable to the public and open to public scrutiny.
- The effective governance of arts and culture in Zimbabwe can only be attained if measures are put in place for the creation of an art fund. While it is correct that the country is still recovering from the effects of the economic hardships that it experienced from 2000, there is still room for the creation of an art fund, especially considering that the artists do contribute to the GDP of the country. According to several visual artists and crafters interviewed by the researcher, they contribute a lot of revenue to



Research on Legal Instruments on Arts & Culture in Zimbabwe

the Zimbabwe Revenue Authority but they do not know where that money goes. They suggested that it would be a great initiative to have some of that revenue ploughed back to boost creative industries. They do acknowledge that there has been some meetings between ZIMRA representatives and the National Arts Council of Zimbabwe, but such lobbying activities need to be done collectively by one structure that represents all arts and culture wings scattered in different ministries.

- The presence of the Censorship Board, whose major role has been explained in detail above, undermines freedom of creative expression in Zimbabwe. Since 1980, the Board has banned several literary works; theatre and performing arts works; music works and visual arts exhibitions, including the famous exhibition by Owen Maseko banned in 2010.
- The fragmentation of the governance structures has made it difficult to harmonise creative industries policies and strategies aimed at improving these industries. It has also made it difficult to collect cultural statistics and to be able to calculate the total contribution of arts and culture to the Gross Domestic Product of the country.

Government perspective

- ❖ Government officials interviewed by the researcher explained that one of the weaknesses of the present governance structures is the lack of proper coordination of government departments and parastatals, which leads to duplication of programmes.
- ❖ Some officials also pointed out that segmentation has hindered the cultural policy making process in Zimbabwe, which started around 1981. In a paper presented at the National Arts and Culture Indaba, 2011, Stephen Chifunyise, the former Permanent Secretary in the Ministry of Education, Sport and Culture, explained that, 'the absence of structures to relate to all institutions and departments that were responsible for some cultural functions, led to efforts of conceiving and formulating cultural policy documents which were clearly not national and which could not be presented to Cabinet and other ministries with responsibilities for culture. Even the effort of prioritizing the task of formulating a national cultural policy was not seen as a critical task of a department that was still trying to justify its existence and the value of culture. As a result most of the policies produced were departmental rather than national.



Research on Legal Instruments on Arts & Culture in Zimbabwe

Artists' perspective

- Bringing together all parastatals that deal with Arts and Culture under one Ministry can go a long way in solving lack of arts funding issues. At the moment it is difficult to put together figures on how much the government spends on Arts and Culture due to fragmentation. These figures are important to artists for lobbying and advocacy purposes. For instance it is difficult for crafters – managed by the National Handicrafts Centre – and the visual artists – who are managed by the National Gallery of Zimbabwe – to come together and collectively lobby the Zimbabwe Revenue Authority on the heavy taxes they pay to export their products.
- Without a budget that could fund the hosting of consultative meetings, the Department of Culture found itself concerned with developing provincial and district structure that would enhance its status even if these replicated what other ministries with culture responsibilities had created. Structures such as district and provincial arts councils, sports councils and youth councils did not only replicate grassroots structures but did not have budgets to fund their activities or secretariats of the structures at both district and provincial levels.

Annex 1: Arts and Culture Budget Allocations Table

*It should be noted that some of the money allocated to arts and culture by the government is not easily reflected in the various ministries budgets because it is hidden under other costs.

Source: Budget Estimates for the year ending December 31, 2011, published by the Ministry of Finance.

| Institution | Revised Budget Estimate for 2010 USD | Unaudited Expenditure to October 2010 USD | Budget Estimates for 2011 USD | Indicative Estimate for 2012 USD | Indicative Estimate for 2013 USD |
|---|---|--|----------------------------------|-------------------------------------|-------------------------------------|
| National Arts Council | 212,000 | 604,034 | 598,000 | 515,000 | 583,000 |
| National Gallery | 271,000 | 219,871 | 984,000 | 802,000 | 911,000 |
| National Archives | 693,000 | 360,580 | 2,021,000 | 1,657,000 | 1,301,000 |
| National Museums and Monuments | 1,250,000 | 850,626 | 1,642,000 | 1,668,000 | 1,864,000 |
| Zimbabwe Film Training School | 96,103 | 99,849 | 258,000 | 153,000 | 174,000 |
| National Library and Documentation Services | 20,000 | 20,000 | 50,000 | 38,000 | 43,000 |



List of Sources

Interviews conducted with the following people:

1. Raphael Chinovava Chikukwa, National Gallery of Zimbabwe Curator
2. Stephen Chifunyise, Arts Consultant
3. Albert Nyathi, Poet, Musician and Former Director of the National Arts Council of Zimbabwe
4. Mr. Mutuvira, Director, Ministry of Education, Sport, Arts and Culture

Literature Review

Patel, Bharat (1997) *Freedom of Literary Expression and Censorship in Zimbabwe*, Zambezia XXIV (i)



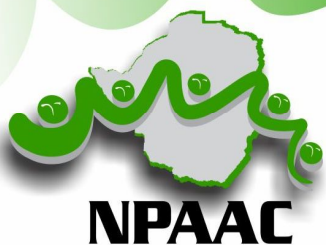
Broadcasting Services Act

Research report by Dr Jacob Mapara and Dr Shumirai Nyota
Research undertaken in April 2012

Summary

FINDINGS

1. The Act was crafted with the intention of buttressing the Access to Information and Protection of Privacy Act (AIPPA)
2. The Act was meant to deny other players space in the broadcasting services
3. The Act entrenched government control over the airwaves
4. The Minister responsible for the Act and the President have absolute discretion as to whom to appoint on the Broadcasting Authority Boards (Appointments of members of the Board are therefore done on partisan lines)
5. There is no provision in the Act for the Minister to consult other stakeholders such as arts organisations or civic groups
6. Although there is a policy that broadcasters should air 75% local content, the Act refers to content that ranges between 70% and 80%
7. The Act is not clear on what happens if the 70%-80% local content is not reached or is breached
8. The Act is silent on the distribution of local languages on the available radio and television stations
9. The Act is against the letter and spirit of the UNESCO 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expression (16 indigenous languages share slots on two radio stations, while the two remaining stations are for English)
10. The Act is silent on the role government should play in assisting artists in ensuring that they meet the requirements of 75% local content



11. The Act restricts the issue of signal carrier licences to only one service provider, other than the public broadcaster. This provision is unconstitutional since it infringes on people's rights to free expression through broadcasting. This provision is impractical for local commercial community radio stations that may own small transmitters
12. The Act does not give space to community radio and television stations to broadcast matters of a political nature
13. The Act's conditions for community commercial radio stations are restrictive, especially when it comes to foreign funding

Research Report

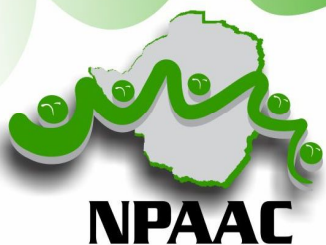
Executive Summary

The research sought to evaluate the application and impact of the Broadcasting Services Act in governing the arts and culture industry in Zimbabwe. It was also meant to examine ways that government can interface with civil society on how best to implement the 7 UNESCO conventions relating to culture.

The researchers have identified several areas that they believe are not constitutional and that infringe on the fundamentals of freedom of expression and the people's right to information. The research should benefit artists and arts organizations since it highlights the strengths and weaknesses of the said Act. As such it can also assist artists and arts organizations in lobbying government and other stakeholders to assist in improving and amending the weak areas of the existing instrument so that it becomes more representative, democratic and participatory in its implementation and, consequently, lead to the development and growth of a vibrant creative artistic and cultural industry in Zimbabwe.

The principal findings relate to the Broadcasting Services Act.

Among the major findings was the weakness found in the entire Act whereby the Minister responsible was given too much power in the running of the controlling Act, the appointment of its Board members, issues to do with appeals by artists and arts organizations, and implementation of the Act in general. What this means is that the success or failure of the arts and culture sector depends on one individual, the sitting Minister, as well as, by extension, the President of the Republic. Unlike in other Acts, the language of this instrument was found to be friendly to the user. It is its stipulations and its implementation that are a hurdle



Research on Legal Instruments on Arts & Culture in Zimbabwe

to the development of the arts and culture industry in Zimbabwe. The rest of the findings are itemized under the Act and instruments in the document.

Based on the findings, global recommendations relating to the Act and recommendations on individual sections were made. The global recommendations include that, in order to empower artists to have a better understanding of instruments that govern the way they are supposed to go about their day-to-day activities, all the Acts to do with the arts and culture industries have to be read in conjunction with each other. The researchers further suggest the establishment of a Parliamentary Commission that will work with the Minister to consult and then appoint to the relevant Boards people with the relevant skills and experience in the identified areas, not simply appoint at the Minister's pleasure. This will ensure that there is wide consultation and that partisan interference is minimized. The specific recommendations are spelt out under the relevant instrument in the document.

Brief Project Description and Context

The project evaluates the suitability of the Act that is used in the governance of the airwaves and related areas as regards the arts and cultural industries in Zimbabwe. It does this with the intention of finding out whether or not the Act is pro-arts and culture. One justification for carrying out such an evaluation is the fact that some artists have been subject to police harassment. There are even instances where artists performing plays, which have been approved by the Censorship Board, find themselves being victims of the 'law' when the police officers cite the Public Order and Security Act (POSA), in spite of the censors seeing nothing wrong with the play. This has happened to Styx Mhlanga in Bulawayo and to Rooftop Promotions during their national tour of Rituals. There is also the fact that no independent players have been given licenses to operate radio and television licenses, despite the constitution having been amended. This has happened because the Minister responsible still has much power and the current Board was not dissolved when Amendment Number 19 came into effect.

Broadcasting Services Act

Introduction

This is one of the most controversial pieces of legislation ever to be passed in independent Zimbabwe. For all intents and purposes, this Act is meant to deny other players space in the broadcasting services. The Act further entrenches government control over the airwaves. The appointments that are done to the



Research on Legal Instruments on Arts & Culture in Zimbabwe

Board are done on partisan lines. This is clear when one considers the fact that all powers, such as those that deal with the licensing, lie with the sitting Minister of the ministry that is currently the custodian of the Act.

It is interesting to note that the Act perpetuates ZANU (PF) dominance of the airwaves, just like that of the RF of Smith under UDI. It is a continuing violation of the right to freedom of expression, as enshrined in section 20 of the current Constitution.

Brief historical background

In 1980 Zimbabwe attained self-rule. At the time the country's southern neighbour South Africa posed a real security threat; there was a high possibility that the country's security could be compromised if the airwaves were not controlled by the state. However, with the establishment of majority rule in South Africa in 1994, it was no longer necessary for the government to maintain its grip on the airwaves. After the year 2000, when the Movement for Democratic Change (MDC) became a potent political force, the ZANU (PF) government felt threatened and, instead of creating an atmosphere that promotes political plurality and freedom of expression as well as the right to information, the current Broadcasting Services Act was crafted with the intention of buttressing the Access to Information and Protection of Privacy Act (AIPPA).

Major findings

1. Like in the other Acts that relate to the governance of the arts and culture industries, the Minister has all the powers. It is him/her who appoints the Board. In fact, according to Minister Coltart, Section 4(2) of the Act establishes a Broadcasting Authority Board to govern the authority consisting of "members appointed by the Minister (of Information) after consultation with the President and in accordance with any directions that the President may give him". In other words the Minister and the President have absolute discretion as to who will sit on the Board. Internationally, such Boards are selected by a Parliamentary body after a thorough and transparent process (advertisements, public hearings etc). In some countries civil society groups themselves are involved in the process. (<http://davidcoltart.com/2001/10/a-critique-of-the-zimbabwean-broadcasting-services-and-political-parties-finance-acts/>)

It is therefore clear that the intention of the Act is not to open up the airwaves, but is to plug the perceived holes in the previous Act, which was seen as not being water-tight enough.

2. There is no provision for the minister to consult other stakeholders such as arts organizations or civic groups.
3. Although it is generally stated that the broadcasters should air 75% local content, the Act refers to content that ranges between 70% and 80%. It is not clear how the 70%-80% local content was arrived at.
4. The Act is not clear on what happens if the 70%-80% local content is not reached or is breached.
5. The Act is silent on the distribution of local languages on the available radio and television stations.
It is therefore clear that this Act is very much against the letter and spirit of the 2005 UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. It does not give adequate space to indigenous languages. This means that by extension, this very same Act that makes reference to 75% local content is not doing enough since about 16 indigenous languages that are there in Zimbabwe have to share slots on two stations and the remaining two stations are for English.
6. From the current practice, especially of ZTV, it would seem local content only refers to Ndebele and Shona.
7. The Act is also silent on copyright, thus disregarding the 1952 Universal Copyright Convention as well the 1970 Convention of the Means of Prohibiting and Preventing Illicit Import, Export and Transfer of Cultural Property.

Sixth Schedule (Section 11 (3))

Compliance of those given television broadcasting licenses

1. The 75% local content is a welcome development, even if it is not clear why it was pegged at 75% and not 80% or 90%.
2. The Act should also have stipulated the role government is going to play in assisting artists to ensure that they meet the requirements of the 75% local content without necessarily reverting to the archives where colonial Rhodesia's films are. Some of these films, such as *Tiki* (Tickey), undermine the integrity of the black people.
3. It is stated that 70% of drama should be Zimbabwean. The Act is silent on whether there was consultation with the artists or whether it was a ministerial imposition.
4. The above is also true of the 80% current affairs, 70% social documentary, 70% informal knowledge building programmes and 80% educational programmes, including those for children.



Compliance of those given subscription broadcasting licenses

1. The Act stipulates that there should be 30% local content. Again the observation is that it is not clear on how this was arrived at.

Appointments to board

1. Section 4(3) does not give examples of groups from whom board members would be selected.

Licensing conditions

1. The Minister is too powerful. He is the licensing authority.
2. Section 8(1) (2) states that Zimbabwean citizens resident in Zimbabwe are the only ones who qualify to get licenses, thus denying citizens outside the country a role to play in information dissemination and entertaining people back home through broadcasting. The Act is thus anti-Diasporan.
3. Section (9) (1) stipulates that only one license, besides that of ZBC, can be given. Thus it does not leave space for other players to participate.
4. Section 9(2) and (3) restricts signal carriers. It states that only one signal carrier license shall be issued to a person other than a public broadcaster and "with the exception of a public broadcaster, a broadcasting license and a carrier license shall not be issued to the same applicant." This stipulation is designed to centralise the transmitting signal. It is clear that this is intended to be used as a means of control. This provision is also impractical for local commercial community radio stations that have their own small transmitters. In terms of this Act the holder of the broadcasting license will always be dependent on the holder of the carrier license to ensure the free flow of information. The provision is unconstitutional since it infringes on people's rights to free expression through broadcasting without hindrance. (Coltart <http://davidcoltart.com/2001/10/a-critique-of-the-zimbabwean-broadcasting-services-and-political-parties-finances-acts/>)
5. Section 11 of the 5th schedule gives the Minister too much power over independent broadcasters.
6. Section 11 (5) gives one hour to the government of the day to explain its policies to the people. This policy is an extension of government control and interference because the same Act does not extend the same service to opposition political parties. This amounts to manipulation of broadcasting services.
7. Section 11 (1) (b) does not give space to community radio and television stations to broadcast matters of a political nature, including that relating to



Research on Legal Instruments on Arts & Culture in Zimbabwe

the launching of a political party. This denies people access to information and a choice in terms of choosing which political party to support.

8. Some artists or arts organizations may have their own funding to set up radio and television stations but, because the licenses are renewed annually, this makes it very restrictive since the period is too short, too expensive and unpredictable.
9. The conditions for community commercial radio are restrictive, especially when it comes to foreign funding since Zimbabwe is suffering from foreign currency shortages, even after the establishment of the Government of National Unity (GNU).

Recommendations

- The following recommendations are not an attack on the Act, but are meant to create a platform for dialogue so that the Act is improved to create an environment that is conducive for artists and other cultural practitioners in order that they may flourish and earn an honest and decent living. This will enable them to fulfil their role as entertainers, educators and information disseminators on matters that relate to all forms of our diverse cultural heritage and national well being.
- Although this Act is more accessible when compared to the others, it can be simplified to make it more user-friendly. In addition to further simplification it may be helpful if an abridged version of the Act is produced. This same version should also be considered as legally binding.
- Besides further simplifying the language, artists may also benefit if the Act is translated into all of the country's indigenous languages.
- It is recommended that all the acts relating to arts and culture be read by in conjunction with each other. This will enable artists to have a better understanding of the instruments that govern their professional practice and how they have to interact with the different government departments and ministries.
- Like the other acts and statutes that relate to arts and culture, it is recommended that the Zimbabwe Broadcasting Services Act adhere to the UNESCO Cultural Conventions, as well as other AU and SADC instruments. The Act and any related statutory instruments have to be



Research on Legal Instruments on Arts & Culture in Zimbabwe

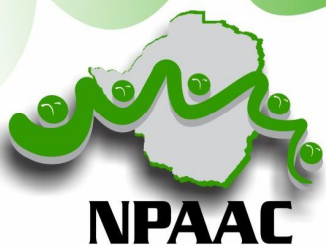
clearly spelt out to indicate that the law conforms to these instruments that Zimbabwe has ratified.

- There is need for a Parliamentary Commission that will work with the Minister to consult and appoint to the relevant board people with the appropriate skills and experience in the identified area. This will ensure that there is wide consultation and that partisan interference is minimized.
- Complainants should be given leave to appeal to the courts of the land and not make the Minister's office the final platform of appeal.
- It is also noted that the period of holding a license as stipulated in the act is one calendar year. It is recommended that this be raised to at least five years. This will enable the holders to plan for the medium to long term.
- On the issue of foreign funding of broadcasting stations, it is recommended that government honestly assesses the suitability of the funders rather than just reject them. This will enable the broadcasters to acquire equipment that they may not have money to buy, since Zimbabwe has been on an economic downturn.
- There is also the case of just one other broadcaster. This has the effect of denying Zimbabweans access to various channels of information and denying them entertainment. We therefore recommend that the airwaves be opened up for those interested to compete and the best ones will remain in the field.
- Zimbabweans in the Diaspora should also be allowed to invest back home. It would appear to be double standards for government to appeal to those in the Diaspora to invest back home and have the government then decide on the areas in which they should invest.

Sources

The Broadcasting Services Act

Coltart, D. <http://davidcoltart.com/2001/10/a-critique-of-the-zimbabwean-broadcasting-services-and-political-parties-finance-acts/>



Censorship Act and its Application to the Arts and Culture in Zimbabwe

(Chapter 10:04)

Research report by Eric M. Mazango

Summary

HISTORICAL PERSPECTIVE

1. The first censorship law in this country was the Obscene Publications Ordinance, 1911 (Ordinance No.14 of 1911). The scope of this statutory control was confined to indecent or obscene publications
2. In 1912 the Cinematograph Ordinance (Ordinance No.5 of 1912) was enacted
3. In 1932 the Censorship and Entertainment Control Act was promulgated –to control theatrical performances and other public entertainments
4. In 1967 the diverse strands of censorship legislation were combined into the Censorship and Entertainment Control Act, 1967 (Act No.37 of 1967)

FINDINGS AND OBSERVATIONS

1. The Censorship and Entertainment Act (Chapter 10:04) is one of the many draconian laws enacted by the departed colonial regime
2. The Act establishes a censorship regime which vests the powers that be with *carte blanche* to withhold any books, films, public entertainment and other works of art that are found objectionable
3. The restrictive provisions of the Act currently in force (on licensing plays, playhouses and artists, and green-lighting public entertainments) breach constitutional principles that establish the right to freedom of expression and to freedom of association
4. The Act proscribes obscene material on the one hand and controls information so as to avoid embarrassment to the government or to political parties on the other



Research on Legal Instruments on Arts & Culture in Zimbabwe

5. The Act continues to be invoked in concert with other punitive laws (together with the abuse of legal process through unjustified arrests, pre-trial detentions and sham arraignment) to directly abrogate the individual rights of artists to express themselves through their work
6. The Ministry of Education, Sport, Arts and Culture, which is the parent ministry governing the arts sector, has refused to accept legal responsibility for the damaging environment created by this Act, using the excuse that the Act falls under the jurisdiction of a different ministry – Home Affairs.

RECOMMENDATIONS

1. The Act (Chapter 10:04) should be repealed and a truly consultative process to enact an ideal Act initiated (artistic creativity will never be nurtured in an environment where the right to express oneself is non-existent)
2. Creative civil society should galvanise its campaign for censorship reform through debates throughout the country
3. Creative civil society should put pressure on the government by calling for position papers and submissions from interested stakeholders, legal experts and the public, and by distilling views on how the censorship law can be overhauled
4. Creative civil society should commission the drafting of an alternative/model bill that addresses the arts sector
5. Creative civil society should lobby for arts friendly laws

Research Report

Introduction

On 03 May we commemorated World Press Freedom Day, yet again under the shadow of censorship despite claims by the government of press law reforms. UN secretary-general Ban Ki-moon, in a joint statement with UNESCO director-general Irina Bokova, highlighted the urgent need to lift this yoke of oppression when they said on the occasion of the day, "Freedom of expression is one of our most precious rights. It underpins every other freedom and provides a foundation for human dignity."



Research on Legal Instruments on Arts & Culture in Zimbabwe

In Zimbabwe the oppressive instruments of censorship that are a legacy of the colonial regime remain largely intact and their octopus grip extends even to artists. It is time for the country to amend and repeal outdated and unnecessarily restrictive censorship laws that are completely out of kilter with society today. In its current form, the Censorship and Entertainments Control Act (*Chapter 10:04*) is incongruous with the regime of transparency that is acceptable in democratic societies. The current constitution-making process is a window of opportunity, both to call for an elaborate and well spelled out arts and culture policy, and to manoeuvre so as to ensure freedom of artistic expression becomes entrenched as a fundamental liberty.

Nhimbe Trust and similarly concerned entities should continue campaigning for a shift from the closed and highly interventionist model of censorship that we have into a more open, liberal and accountable regime that is based around classification as the norm and direct banning of artistic material as the exception. Government must not be allowed to bottle out of the new policy and legislative programme, which gives greater weight to the unleashing of creative expression. Restrictions on dissemination of artistic products should only be imposed at the upper limits of what is considered acceptable by the general community.

Historical perspective of the instrument

Censorship laws in the country were given birth when the control of publications made its first entry into the statute books of Southern Rhodesia in January 1912 through the *Obscene Publications Ordinance, 1911* (Ordinance No. 14 of 1911). As is evident from the title of this Ordinance, the scope of statutory control was confined to indecent or obscene publications. The manner of control that was adopted was the traditionally tough method of criminalising and penalising specified conduct. The Ordinance proscribed activities such as the importation, production, sale, distribution, possession and posting of indecent or obscene publications or printed matter.

That the legislator deemed the subject matter to be especially offensive and the mischief involved to be one of grave proportions is quite evident when one looks at the relative severity of the penalties imposed. These ranged from a fine of £10 or a prison term of one month for possession to a fine of £250 and/or incarceration up to three years for importation or production, which was quite severe at the time relative to penalties for other miscellaneous offences such as the brewing, sale, possession and supply of traditional beer.



Research on Legal Instruments on Arts & Culture in Zimbabwe

The regulation of the visual media was also introduced later the same year, in terms of the *Cinematograph Ordinance, 1912* (Ordinance No. 5 of 1912). According to Patel (1997), who has studied the genesis and development of this law,¹ the primary concern of this enactment appears to have been the physical safety of the premises used for celluloid exhibitions rather than the moral purity of the viewing public. Indeed, exhibitions given in private premises were expressly excluded from the purview of statutory control. Subsequent legislation, promulgated as the *Entertainments Control and Censorship Act, 1932*, 12 (Act No. 6 of 1932) expanded the scope of control to cover theatrical performances and other public entertainments. This Act also established the Board of Censors whose functions at that time were confined to the scrutiny of films and film advertisements.

In 1967, the diverse strands of legislation were combined in the *Censorship and Entertainments Control Act, 1967*.¹³ (Act No. 37 of 1967). This Act was then updated and consolidated under the same title as *Chapter 78* in 1974 and as *Chapter 10: 04* in 1996, 14 (1974 and 1996 Revised Edition of Statutes). *Chapter 10: 04* was updated in 2004 but has remained substantially intact since its inception in 1967.

General Objectives and Principles

The Censorship and Entertainments Act (*Chapter 10: 04*) is part of the gamut of draconian laws enacted by the departing colonial regime that continue to spill quite some blood. It establishes a censorship regime which vests the powers that be with a *carte blanche* to withhold any books, films, public entertainments and other works of art that are found objectionable. *Chapter 10: 04* is considered to be the ultimate law that allows the government to ban the dissemination of works of art that criticize authorities, albeit on the basis of nebulous concepts such as morality, obscenity and public order.

The continued use of this piece of legislation by authorities 32 years after independence has played a major part in negatively shaping the work and conduct of artists as it suppresses creativity and now offers a powerful sanction against strident criticism of authorities. State authorities continue to clamp down on any communication that contains anything objectionable, either on the score of politics or morals. Some artists who, it would appear, have gone against the expectations of the 'system' or are particularly irksome to the authorities for their

¹ For an illuminating analysis on the origins of the Zimbabwean law of censorship see Patel, Bharat (1997) "Freedom of Literary Expression and Censorship in Zimbabwe" *Zambezia* (1997), XXIV (i) pp51-67.



Research on Legal Instruments on Arts & Culture in Zimbabwe

'subversive' commentary have endured harassment and arrest, while some of their plays, films, art exhibitions and songs have been unconditionally censored or banned using this stringent law. Below we highlight some of the key provisions of this law (for a summary see the appendix).

Purpose of Act

According to its preamble *Chapter 10: 04* says it is "*an Act to regulate and control the public exhibition of films, the importation, production, dissemination and possession of undesirable or prohibited video and film material, publications, pictures, statues and records and the giving of public entertainments; regulates theatres and like places of public entertainment in the interests of safety; and provides for matters incidental to the foregoing.*"

Board of Censors and its Functions

According to Section 3(1) of the Act the Minister appoints a Board of Censors. Administratively, the Board constitutes the primary repository of control. The Board's wide pre-approval powers for public entertainments and already published or prepared work allows it to examine any material and to declare whether or not, in its opinion, it is 'undesirable'. It may also, after due notice, declare subsequent editions of periodical publications to be undesirable. Moreover, if motivated to do so in the public interest, the Board may go further to declare an undesirable material to be 'prohibited'. The sting behind prohibition in this sense is that the mere possession of a prohibited publication is tantamount to an offence.

Section 4 empowers the Board:

- (a) to examine any article or public entertainment submitted to it; and
- (b) to make such inquiries as it may consider necessary in regard to any publication, picture, statue, record or public entertainment which is alleged to be or which the Board has reason to believe will lead to breaches of the peace, disorderly or immoral behaviour or abuses relating to the consumption of alcohol or drugs or depicts any matter that is indecent or obscene or is offensive or harmful to public morals.



Substantive Reasons for Banning Work

The substantive grounds for works are spelt out in sections 13, 16, 17, and 33 of the Act. In essence, there are three broad categories of control, namely, that the offending material:

- (a) is indecent or obscene or is offensive or harmful to public morals;
- (b) is likely to be contrary to the interests of defence, public safety, public order, the economic interests of the state or public health; or
- (c) discloses, with reference to any judicial proceedings, matter which falls within the ambit of category (a) or, with reference to matrimonial proceedings, particulars which are unnecessarily prejudicial to the parties involved.

Determination of what is indecent or obscene or offensive or harmful to public morals

The Act endeavours to amplify its intent in section 33 where it gives a most specific definition of what is considered indecent or obscene. A matter or thing or its depiction is deemed:

- (a) indecent or obscene if—
 - (i) it has the tendency to deprave or corrupt the minds of persons who are likely to be exposed to the effect or influence thereof or it is in any way subversive of morality; or
 - (ii) whether or not related to any sexual content, it unduly exploits horror, cruelty or violence, whether pictorial or otherwise;
- (b) offensive to public morals if it is likely to be outrageous or disgusting to persons who are likely to read, hear or see it;
- (c) harmful to public morals if it deals in an improper or offensive manner with criminal or immoral behaviour.

Classes of Prohibited Material

- (i) Prohibition of unapproved films



Research on Legal Instruments on Arts & Culture in Zimbabwe

In light of the above powers Section 9 prohibits the distributing, televising or public exhibiting of any film or film advertisement that has not been first approved by the Board according to set conditions. Section 10 says the Board will not approve any film or film advertisement which in its opinion:

- (a) depicts any matter that is indecent or obscene or is offensive or harmful to public morals; or
- (b) is likely to be contrary to the interests of defence, public safety, public order, the economic interests of the State or public health; or
- (c) depicts any matter in a manner that is indecent or obscene or is offensive or harmful to public morals.

An approved film or film advertisement is then issued with a certificate. A decision by the Board to prohibit a film will be declared by a notice published in the *Gazette*. No person can import any recorded video or film material that the Board has declared prohibited and such material will be forfeited and disposed of, with the contravening party being liable to a fine or imprisonment.

- (ii) Prohibition of importation, production and dissemination of undesirable publications, pictures, statues and records

Section 13 (1) prohibits the importation, printing, publishing, manufacturing, making or producing, distributing, displaying, exhibiting or selling or offering or keeping for sale any publication, picture, statue or record; or publicly playing any record which is undesirable or which has been declared by the Board to be undesirable.

- (iii) Power of Board to examine publications, pictures, statues and records and to declare them undesirable or to declare publication or record prohibited

Section 14 says the Board shall have power to examine any publication, picture, statue or record and to declare whether or not it is, in the opinion of the Board, undesirable. The Board may, if it considers it necessary or expedient in the public interest to do so, declare any publication, picture, statue or record, which has been declared undesirable to be prohibited through a notice published in a *Gazette*.



(iv) Prohibition of public entertainments unless approved

Section 16 and 17 prohibit the performing in or giving or permitting the giving of any public entertainment unless such public entertainment has been approved by the Board. When the Board approves of any public entertainment it signifies such approval by means of a certificate. It may reject unconditionally, or approve subject to set conditions, or exempt from approval any class of public entertainments intended for performance.

The Board will not approve, and will prohibit, any public entertainment, or the public exhibition or intended exhibition of any publication, picture, statue or record or the public playing or intended playing of any record, or the televising or intended televising, of any film which in its opinion is undesirable or is likely to be associated with breaches of the peace, disorderly or immoral behaviour or abuses relating to the consumption of alcohol or drugs.

Main Policy Issues arising from the Law

As described above the main policy issues emerging from Chapter 10:04 have to do with *restriction* (through prohibition of the importation, production and dissemination) of artistic works – in the form of films, film advertisements, publications, pictures, statues, records and public entertainment – which are *ex facie* undesirable or which have been declared by the Board of Censors to be undesirable.

The restrictive provisions of the Act currently in force (on licensing plays, playhouses and artists and green-lighting public entertainments) obviously breach constitutional principles that establish a right to freedom of expression and freedom of association and should be replaced with the fundamental liberty to openly publish art works. What needs to be done is to canvass on how these restrictions violate the juristic conception of these freedoms. That this law fails to fall within the bounds of permissible limitations to freedom of expression as a juridical norm embodied in the UN Charter, the African Charter and in the constitution of Zimbabwe (both the current and the forthcoming) should continue to be highlighted.

Some could argue that there is little wrong with the letter of the law *per se* especially when used sparingly and wisely to meet the sensitive demands and expectations of the public. It is accepted that, theoretically, we should not absolve the arts from scrutiny whatsoever and that censors face the predicament of having to tussle with the simultaneous demands of maintaining public mores and



Research on Legal Instruments on Arts & Culture in Zimbabwe

allowing the free movement of ideas and information. However, the state's unceasing motivation to apply the arbitrary system of *a priori* censorship as a bulwark to silence artists who are considered political critics, shows that in its current form and spirit the Act is essentially a discretionary statute with a significant political ingredient.

In other words there is a great deal of difference between proscribing obscene material on the one hand and controlling information so as to avoid embarrassment to the government or to political parties, on the other. The fact that *Chapter 10:04* of 2004 seems capable of protecting both needs calls for a campaign for its fundamental reform so as to clearly distinguish instances of moral bankruptcy (such as pornography and hate speech) and public-spirited creativity by artists.

Impact and Recent Debates

Patel (1997) conducted a detailed analysis of how the law has been used to control the circulation of published literature from Rhodesia and well into Zimbabwe providing an extensive list of books that were banned under this law². In more recent times *Chapter 10:04* continues to be invoked in concert with other punitive laws³ (together with the abuse of legal process through unjustified arrests, pre-trial detentions, and sham arraignments) to directly abrogate the individual rights of artists to express themselves through their work. However, in the period beginning from 2000 onwards the silent protest against artistic censorship and the censorship regime has given way for the most part to a public outcry in the press and other fora.⁴

Below I cite some of the most important instances where the law has been used and the debate this has generated. From an analysis of press reports over these cases and interviews with artists and officials, what emerges is that the area of most concern for the state is music since it reaches a mass audience. Also closely controlled are theatre and open forum events, not only because of the inventiveness that takes place in such "hit and run" places but because of the

² Patel (2007), *op cit*. Also see Musaemura Zimunya (2007) "A case of literary censorship in post-independent Zimbabwe: Black Sunlight" Presentation first given at the "Remembering Dambudzo Marechera" Seminar, National Art Gallery, Harare, August 17, 2007.

³ such as the Public Order and Security Act (POSA), Access to Information and Protection of Privacy Act (AIPPA), Criminal Law and Codification (Reform) Act, and broadcasting laws entrenching the monopoly of the state broadcaster.

⁴ See Marko Phiri, Kubatana.net (2011) *See Get inspired! Interviews with Bulawayo creatives - Index of materials*, www.kubatana.net May 2011



Research on Legal Instruments on Arts & Culture in Zimbabwe

obvious linkage of stage performance, activism and politics. Visual art which is sometimes considered 'dangerous' because it is, by definition, visible and available for all to see has also been victim of *Chapter 10:04*.

Ultimately, to understand the complexity of censorship practices one has to understand that *Chapter 10:04* has been used in conjunction with the laws analyzed in other papers; something that has spawned massive self-censorship. As veteran arts practitioner Stephen Chifunyise said last year pertaining to public performances: *"Censorship lies at three levels where artists submit scripts to the authorities, apply to the police for clearance, then there are the individual politicians in the communities directing the police on the ground. Art must be freed from undue censorship."*

Interviewed on Music Freedom Day on 3 March Solomon Chitsunga, an inspector from the Board of Censors, says the law is in the public interest and there are many valid reasons why certain music might be banned, such as the possibility to 'cause a public outcry'.

*"Musicians are supposed to get [a] certificate that allows them to provide entertainment to the public," said Chitsunga. "So any musician who wants to entertain the public must have that certificate which will guide him – the dos and don'ts – especially on the moral, decent aspects, since that is the other function of the board. Recording companies must check if the art they are recording is coming from a registered member with the censorship board. There might be chances that the music might be banned."*⁵

Another interesting dimension when it comes to applying this law is that the Ministry of Education, Sports and Culture, which is the parent ministry governing the arts sector has refused to accept legal responsibility for the damaging environment created by this law using the excuse that it falls under the jurisdiction of a completely different Ministry – Home Affairs. Such contradictions call for lobbying for the speedy reform of such laws and the harmonisation of policies and instruments affecting artists.

⁵ Freemuse.org, "Zimbabwe seminar: Censor meets musicians" May 02, 2005, <http://www.freemuse.org>; Sebastian Mhofu, "Music Freedom Day a Challenge in Zimbabwe" February 29, 2012



Selected cases where Chapter 10:04 has been cited or used

Performing Arts

Edgar Langeveldt [stand-up comedian]

Gagged

It was reported in earl 2001 that after the stand-up comedian Edgar Langeveldt's shows at the Book Café and other places became more controversial officials started distributing censorship forms before a show which ordered performers' scripts to be cleared first.

Amakhosi / *Witnesses and Victims* [play]

Monitored

It was reported that when Amakhosi Theatre group performed their play *Witnesses and Victims* at the third Harare International Festival of the Arts (HIFA) festival in May 2001 they noticed their performance was being monitored by plain-clothes agents. They, however, could not establish whether those doing the monitoring were security agents or 'examiners of plays' enforcing the censorship-by-licensing requirement.

Rooftop Promotions / *Super Patriots and Morons* [play]

Banned/staging rejected by Censorship Board

Super Patriots and Morons said to be a highly acclaimed political satire from Rooftop Promotions that centres on an iron-fisted leader of an imaginary African country, intolerant of opposing political and economic sentiments, was banned in 2003. According to *Kubatana.net* Zimbabwe's Censorship Board, citing provisions of *Chapter 10:04*, rejected the staging of the play after it opened to full-houses at HIFA. In its notice of rejection the board said: "*It is hereby notified that the cinematograph film, film advertisement or public entertainment described has been rejected by the Censorship board.*"

Amakhosi / *The Good President* [play]

Banned

The Good President, a politically charged satire, which tells the political history of Zimbabwe since independence is a collaboration between Cont Mhlanga of Amakhosi and Daves Guzha of Rooftop Promotions. It opened in Harare on April 12, 2007 to good crowds, although during its premier in Harare, the play attracted a heavy presence of security officers with the government branding it as 'anti-establishment' and 'tribal' as it touched on the Matabeleland atrocities.



Research on Legal Instruments on Arts & Culture in Zimbabwe

For two months, the play ran in various parts of the country, exposing the things it said Mugabe's government does routinely to quash dissent. But by the time the play got to Bulawayo in June, the Censorship Board finally banned it. It was claimed it violated sections of POSA and armed police barred the venue. The Deputy Minister of Information and Publicity at the time, Bright Matonga, was quoted after the ban attacking the play, insisting it was the 'work of political activists masquerading as artists.'

Rooftop Promotions /Rituals [play]

Arrested/Tour stopped

In January 2011, a cast going around the country with a reconciliation and national healing play, *Rituals*, was arrested on unclear charges and they spent four nights in jail because their play was thought by local authorities to have serious political connotations. The play is produced by acclaimed author Stephen Chifunyise and director Daves Guzha. It is a story told in panoramic fashion chronicling how community initiated cultural solutions meet with serious challenges, which either prevent their conclusive enactment or achievement of the desired results. They were acquitted in March in what has been described by the press as a landmark case in terms of freedom of expression and artistic creativity.

Ironically, Rooftop's artistic work in promoting national healing and reconciliation through a play had been seen by the government Organ on National Healing, Reconciliation and Integration (ONHRI) set up under Article VII of the interparty Global Political Agreement (GPA) of 2008 and had been given a valid clearance certificate by the Board of Censors. Worse still, they had notified the police appropriately according to the provisions of POSA (Public Order and Security Act) and had done 16 performances of the same play in that same province in late 2010 and were only left with 4 performances in order to fulfil their quota in Manicaland province.

Although the play was certified under *Chapter 10:04* it raised the issue of how such censorship regimes create conditions that make it possible for law enforcement officials to stifle works that have been cleared or approved.

Visual Arts

Adam Madebe [metal sculptor]/ National Gallery of Zimbabwe in Bulawayo

Banned/sculpture removed

According to Coalition Against Censorship in Zimbabwe (CACZ) Adam Madebe's sculpture was removed from the National Gallery in Bulawayo in April 2010. The



Research on Legal Instruments on Arts & Culture in Zimbabwe

group said a metal sculpture of a nude male figure was removed by the Censorship Board at the instigation of some politicians who said the figure did not belong in a gallery where families with children may come.

CACZ said simple nudity is not sufficient ground for excluding artwork from public exhibition. It said as the Supreme Court has noted multiple times, 'nudity alone' does not place otherwise protected material outside the mantle of the Constitution of Zimbabwe. Nor is nudity in art 'harmful to minors'. The artistic piece in issue was not harmful at all and anyone suggesting otherwise should put forth evidence to prove that.

Owen Maseko [visual artist]/ National Gallery of Zimbabwe in Bulawayo

Arrested/Painting exhibition closed

One of the most widely reported cases is that of visual artist Owen Maseko who on March 26, 2010 opened a *Gukurahundi* atrocities exhibition at the National Gallery of Zimbabwe in Bulawayo called '*Sibathontisele*' and made up of graphic paintings, 3-D installations, graffiti, and effigies. Maseko was initially charged under the Criminal Law and Codification (Reform) Act for purveying 'obscenity and ethnic bias'. Section 33 of the legislation outlaws undermining the authority of the president and Section 42 makes it a crime to utter provocative statements about race, tribe, and place of origin or religion. The crime, described as 'causing offense', carries varying penalties.

In effecting the ban the Secretary of the Home Affairs Ministry responsible for internal security issued a government gazette, accusing Maseko of intolerance and ethnic entrenchment. It stated that, "*the exhibition at the Bulawayo Art Gallery of effigies, paintings and words written on the walls portrays the Gukurahundi era as a tribalised event and as such is prohibited.*" Despite protestations from civil society representatives for this undermining of freedom of expression and the perpetuation of a media blackout on the atrocities Maseko's charges were later amended to the more serious "*communicating falsehoods in order to incite violence*" which carry a 20-year maximum sentence.

He subsequently challenged the constitutionality of his arrest and his case awaits determination at the Supreme Court, although his exhibition has never been allowed to re-open again.



Music

The monopoly state broadcaster has continued to clandestinely blacklist or ban the airing of music by musicians like Thomas Mapfumo, Leonard Zhakata, Raymond Majongwe, Oliver Mtukudzi, Chirikure Chirikure, Albert Nyathi, Cde Fatso and Chabvondoka likely to be considered by the authorities as protest music. However, what is significant is that over the years no clear link has been established between banning of songs from air and *Chapter 10:04*. According to debates organised by Freemuse to explore music censorship and the freedom of musicians, what has been revealed is that the Board of Censors has on many occasions pleaded innocence, arguing that the discretion to air music largely rests with the disk jockey or radio station and that they have rarely issued an injunction on most music considered banned.

According to former Radio Zimbabwe presenter Musavengane Nyasha, speaking at a 2005 discussion about music censorship hosted by Freemuse, Brown's song '*Hande Babe*' (Let's go babe) was considered objectionable because it was said to popularize a saying that was undesirable and demeaning to women. Likewise, musician Franco Hodobo had a song banned by the conservative Radio Zimbabwe because the song was thought to be too explicit since it talked about French-kissing and passionate fondling. Nyasha also highlighted in the same talk that Robson Banda's side 2 of the single '*Tisakanganwe Chinyakare*' (Let's not forget our heritage) was banned because it was said to promote tribalism. It was not revealed whether the above songs were banned at the discretion of the broadcaster or the Censorship Board.

The broadcaster itself has done much to muddy the waters on this issue by refusing over the years to acknowledge that they do censor music largely on political grounds. It was only in 2009 when Hosiah Chipanga's lawyers formally challenged an unofficial ban of their client's music (through prohibition posters put up at the station) that they acknowledged they actively ban 'provocative' so as to 'to promote harmony in society'.

Notable bans are:

Thomas Mapfumo

Songs *Tumirai Vana Kuhondo* and *Hokoyo* (before independence)

Album *Corruption*, with song *Jojo* (1989)

Album *Rise Up* with songs like *Mamvemve*

Album *Chimurenga Rebel*



Oliver Mtukudzi
Album *Bvuma*

Leonard Zhakata
Album *Hodho*

Raymond Majongwe
Album *Daily News*
Song *I Sing What I like*
Song *Revolution*
Song *Comrades*
Song *Of Passports & Visas*

Hosiah Chipanga
Album *Hero Shoko*
Song *Baba Nkomo*
Song *Nhunzi Nechironda*

Tongai Moyo
Song *Kukanda Nekuvhika*

Public Entertainments

Freshlyground [South African group]
Banned

The South African band Freshlyground has been banned from performing in Zimbabwe after releasing the music video 'Chicken to Change', which mocks the country's President Robert Mugabe. The group was scheduled for a concert in Harare in November 2010 but immigration authorities revoked their working visas. The National Arts Council (NACZ) registers show promoters in the country and vets foreign artists before making visa recommendations to immigration. The song is from the band's latest album 'Radio Africa'.

Ntsiki Mazwai [South African musician]
Deported

According to reports on music ezine, *Zimbo Jam*, South African artist Ntsiki Mazwai was told by authorities to leave Zimbabwe before she had finished her allotted performances at the *Intwasa Arts Festival* in Bulawayo in September 2011. She is said to have been escorted to the airport by well-wisher, Alliance Francaise de Bulawayo, after authorities noted that there were irregularities in her



paperwork. The noted irregularities are that she had not been cleared by the Censorship Board and immigration.

Key Recommendations

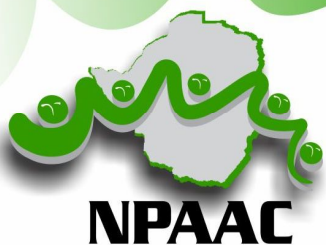
In light of what is outlined in this report, it is strongly suggested that *Chapter 10:04* be repealed, and a truly consultative process to enact an ideal Act be initiated. Artistic creativity will never be nurtured in an environment where the right to express oneself is non-existent. Efforts at entrenching artistic freedom are imperative if economic and social progress in the sector is to be achieved. It is suggested that Nhimbe should undertake the following:

- Galvanize its campaign for censorship reform by subjecting the ageing *Chapter 10:04* to thorough debate throughout the country and by putting pressure on the government by calling for position papers and submissions from interested stakeholders, legal experts, and the public and distilling views on how the law can be overhauled. This implies launching a comprehensive Green/White Paper process (like the current consultation process) to assess the implications of Zimbabwe adopting a revised censorship law.
- Organise a national conference to discuss censorship issues. Although Nhimbe and partners have done considerable work in their campaigns, more still needs to be done on a national scale to involve communities, civic organisations and other groupings in a comprehensive debate on what a desirable arts environment should look like.
- Commission the drafting of an alternative/model censorship bill that addresses the arts sector in a more democratic way and work out a roadmap for its enactment. Lessons can be drawn from media rights campaigners who have come up with their own draft bills, which they used to lobby parliamentarians on freedom of information and broadcasting issues. Even if parliament refuses to table these private members' bills they will have tremendous influence on favourable laws that will eventually be passed. These should be distributed, together with draft policy papers, as widely as possible to all stakeholders and the public in general. Particular attention should be paid to:
 - Whether the powers to revoke or impose arbitrary conditions on public entertainments and to decide what is deemed 'pornographic or obscene' in an artistic work should rest with some unknown body of censors.



Research on Legal Instruments on Arts & Culture in Zimbabwe

- Whether for film and literature greater weight should be given to a principle of classification based on community standards rather than censorship. Prima facie classification implies that nothing is banned but only restricted if necessary. Classification has certainly a more neutral flavour than censorship. Whereas censorship is suggestive of public order and the idea of the public good, classification is associated with the facilitation of informed choice in a community of diverse standards.
- How a revised Board of Censors/of Classification can include members from a non-civil service background and those at the coalface of artistic endeavour to help implement changes and re-organize the regulation of the industry.
- Intensify lobbying on arts friendly laws. The constitution-making process should give Nhimbe renewed determination to lobby for the creative rights of artists. And in view of a new parliament coming into effect following the forthcoming elections Nhimbe should be prepared to re-strategise its advocacy to ensure that the question of reforming laws such as *Chapter 10:04* to make it compatible with constitutional provisions remains part of the legislative shift. Some lobbying activities include:
 - Lobbying political parties, especially their core leadership, on the essentials of censorship reform;
 - Encouraging and assisting members of parliament to submit private member bills in regard to arts and other media reforms;
 - Initiating panel discussions on freedom of creative expression issues throughout the country.



Summary of Key Clauses

Censorship and Entertainments Control Act (*Chapter 10:04*) – 2004

Date of Commencement: 1st December, 1967
Date Effective: 01-Jul-05
Status: Effective

Regulates and controls the public exhibition of films, the importation, production, dissemination and possession of undesirable or prohibited video and film material, publications, pictures, statues and records and the giving of public entertainments; regulates theatres and like places of public entertainment in the interests of safety; and provides for matters incidental to the foregoing.

Important Clauses:

Part II. CENSORSHIP BOARD

3-4- Minister appoints a Board of Censors to examine any article or public entertainment submitted to it and to make such inquiries in regard to any publication, picture, statue, record or public entertainment which is alleged to be or which the Board has reason to believe is of a nature as contemplated in the Act.

PART III. FILMS AND RECORDED VIDEO OR FILM MATERIAL

9-12 Prohibits the distribution, televising or public exhibition of any film unless the film or copy or recording or film advertisement has been approved by the Board. Board then issues a certificate of approval of films and film advertisements

PART IV. PUBLICATIONS, PICTURES, STATUES AND RECORDS

13-14. Prohibits the importation, production and dissemination of undesirable publications, pictures, statues and records. Gives the Board power to examine publications, pictures, statues and records and to declare them undesirable or to declare publication or record prohibited through a notice in the government gazette.

PART V. PUBLIC ENTERTAINMENTS

16. Prohibits public entertainments unless approved and approval signified by means of a certificate.

PART VI. PROHIBITED EXHIBITIONS AND ENTERTAINMENTS

17. Prohibits certain exhibitions and entertainments.

PART VIII. GENERAL

33. Defines indecent or obscene or offensive or harmful to public morals thus:

(a) indecent or obscene if—

- (i) it has the tendency to deprave or corrupt the minds of persons who are likely to be exposed to the effect or influence thereof or it is in any way subversive of morality; or
- (ii) whether or not related to any sexual content, it unduly exploits horror, cruelty or violence, whether pictorial or otherwise;

(b) offensive to public morals if it is likely to be outrageous or disgusting to persons who are likely to read, hear or see it;

(c) harmful to public morals if it deals in an improper or offensive manner with criminal or immoral behaviour.



Implementation of UNESCO Conventions in the Field of Culture

Research report by Stephen Chifunyise
Research undertaken in May 2012

Summary

Research undertaken on the rationale that, if fully implemented, UNESCO Conventions contribute to the growth and development of a vibrant and viable arts and culture sector as well as improving cultural governance at all levels.

RATIFICATION OF UNESCO CONVENTIONS IN THE FIELD OF CULTURE

Zimbabwe has ratified the following 5 UNESCO Conventions in the field of culture:

1. 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (1998)
2. 1970 Convention on the Means of Prohibiting and Preventing the Illicit Export and Transfer of Cultural Property (2006)
3. 1972 Convention on the Protection of the World Cultural and Natural Heritage (1982)
4. 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (2006)
5. 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2008)

The Research Report deals with the last 4 conventions (1970, 1972, 2003 and 2006) because:

1. These conventions have featured prominently in:
 - National forums on the review and formulation of the national cultural policy
 - Forums of Zimbabwe creative civil society on formulating a plan of action on arts and culture



Research on Legal Instruments on Arts & Culture in Zimbabwe

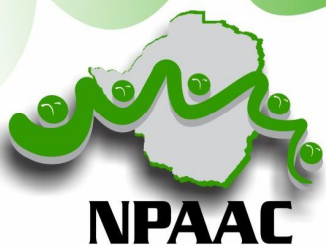
2. These are conventions where there have been implementation activities by government departments, public statutory institutions, communities, groups, arts and culture practitioners

The following are some of the findings of the research:

1. There has been no nationwide public education and awareness-raising about these conventions
2. National points of contact or offices responsible for the implementation of the conventions are not known by stakeholders in the arts and culture sector
3. Information on how arts and culture practitioners can apply for financial assistance from international funds of the convention for projects, programmes and activities is not easily accessible
4. There are no structures for involving creative civil society in contributing to the national reports of the convention for UNESCO
5. There are no known structures for involving creative civil society in the production of national inventories of cultural heritage (2003, 1972 and 1970)
6. There are no national consultative meetings for stakeholder organizations before or after the meetings of the Intergovernmental Committees, and general assemblies of the convention
7. There are no structures of informing communities, groups, institutions and organizations that can contribute to the nomination of cultural heritage for world lists (World Heritage List, Representative List of Intangible Cultural Heritage, List of Intangible Cultural Heritage in need of Urgent Safeguarding and Register of Best Practices in Safeguarding Intangible Cultural Heritage)

RECOMMENDATIONS

1. Declaration of one month as Heritage Month, when, among other things, the implementation of the UNESCO Conventions in the field of culture will be highlighted
2. Setting up and widely publicising of national offices or national points of contact for all conventions Zimbabwe has ratified
3. Establishment of national committees that include representatives of creative civil society for all conventions ratified



4. Holding of national consultative meetings before the meetings of the Intergovernmental Committees and general assemblies of the conventions
5. Translation into indigenous languages and extensive distribution of the texts of the conventions
6. Holding of national workshops on responding to calls for applications for financial assistance from the international funds of the conventions for projects, programmes and activities in the implementation of the conventions
7. Formulation of a comprehensive national heritage policy
8. Engagement of creative civil society in the compilation of national reports for UNESCO on the implementation of the convention
9. Establishment of a Zimbabwe Coalition for Cultural Diversity and to seek membership to the International Federation of Coalitions for Cultural Diversity
10. Establishment of an on-line newsletter on the implementation of the UNESCO Conventions in the field of culture

Research Report

Introduction

Zimbabwe has ratified the following UNESCO Conventions in the field of culture: 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict (1998); 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (2006); 1972 Convention on the Protection of World Cultural and Natural Heritage (1982); 2003 Convention for the Safeguarding of the Intangible Cultural Heritage (2006); 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2008). By ratifying a convention, a state expresses its willingness to be bound by the provisions of the convention.

Actions taken in the creation of UNESCO Conventions

Several senior officials in public cultural institutions and active members of the creative civil society who are critical stakeholders in issues dealt with by the 7 UNESCO conventions in the field of culture, interviewed in April 2012, expressed



Research on Legal Instruments on Arts & Culture in Zimbabwe

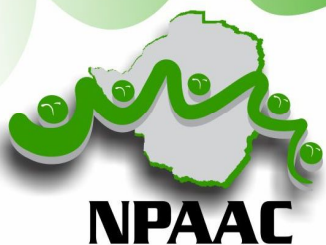
ignorance of how UNESCO conventions, declarations or recommendations come into existence. There were strong indications that only those who attend the UNESCO General Conference and the general assemblies of the conventions are familiar with the process taken to create UNESCO standard setting instruments. This indication also clearly showed that there were few people within the government departments with cultural functions, public cultural institutions and the creative civil society in Zimbabwe who are familiar with the operations of UNESCO and how member states contribute to the organization's operations.

When one traces the steps taken in the process of producing a convention, one finds many indications that, by the time UNESCO General Conference adopts a convention, the issues the convention deals with should have been subject of several meetings of concerned sections of society in member states.

During the debates of the General Conference, issues may be raised, in the five commissions of Education, Natural Sciences, Humanities and Social Sciences, Information and Communication, and Culture, that are found to have legal ramifications when applied internationally. When such issues are identified, the Director General of UNESCO sets up a preliminary study of the technical and legal aspects of the issue or questions that may need to be stipulated as legal instruments applicable at the international level.

The Director General then submits the report of the study for consideration by the UNESCO Executive Board, which takes it as a proposal for international regulation. The Executive Board considers the report and puts it on the agenda of the General Conference, which, in turn, considers the proposal and decides whether the proposed international regulation is desirable or not. If the General Conference finds the proposed regulation desirable, it then decides whether it should be a convention, a declaration or a recommendation.

Once a decision has been taken by the General Conference that a proposed regulation should be a convention, the Director General proceeds with the preparation of a preliminary report setting forth the position with regards to the problem or issue to be regulated, as well as indicating the possible scope of the regulatory action. Member states are then invited to study the report and to present their comments or observations on the report. Armed with the feedback from member states, the Director General prepares a full report with one or more drafts of the Convention. The report and the draft convention are given to a committee of experts, which consults and produces the final draft text of the convention. The Director General submits the final draft text of the convention to the General Conference, which in turn considers it and, if it sees it fit, adopts it.



Research on Legal Instruments on Arts & Culture in Zimbabwe

There is no doubt that, as far as conventions adopted by the UNESCO General Conference since 1980 are concerned, Zimbabwe, through various delegations and experts, participated in the process of producing three of the five UNESCO conventions that have been the subject of this study. However, it is evident that the absence of mechanisms for consultations among those in the field of culture in government departments, public cultural institutions and stakeholders in the culture sector on UNESCO issues, such as studies and reports on the proposed standard setting instruments, draft recommendations, drafts conventions and declarations, has mitigated against Zimbabwe's active participation in the process of creating conventions in the field of culture.

This state of affairs has therefore led to a situation where those concerned with issues dealt with by UNESCO conventions are not familiar with the conventions when Zimbabwe considers ratifying them. The people interviewed pointed out there are no clear programmes or strategies for consulting the stakeholders in the culture sector when the Director General of UNESCO requests for comments on studies or reports, as well as before the government deposits instruments of ratifying conventions.

It was also evident that the only consultations that usually take place before the government ratifies a convention are those between ministries concerned with culture and those that process the ratification of conventions or the signing of international agreements and protocols. If the preliminary studies on issues to be regulated by UNESCO had been widely discussed when the Director General sought comments and observations from Zimbabwe, there would be many of the concerned stakeholders in the culture sector who are familiar with the content of whatever UNESCO conventions Zimbabwe would be considering to ratify and to implement.

Actions after conventions have been adopted by the General Conference

The following are some of the most critical actions that are generally required to be taken by a state party to a convention in order to bring about the implementation of a convention it has ratified: Making citizens aware of the convention the state has ratified, through public education and awareness-raising campaigns aimed at those elements of the society that are concerned with the issues the convention deals with;

- 1.1 Indicating, to both UNESCO (the Secretariat of the concerned convention) and the concerned stakeholders or sections of society that are concerned



Research on Legal Instruments on Arts & Culture in Zimbabwe

with the convention, the national entity responsible for the implementation of the convention or the national contact point on issues to do with the implementation of a convention;

- 1.2 Establishing and making known national mechanisms for implementing the convention;
- 1.3 Compiling and submitting periodic reports (national reports) to the General Conference of UNESCO or the General Assembly of Parties to the convention on what actions a state has taken to implement the convention, indicating in particular legislative and administrative provisions the state has adopted in the application of the convention.

2003 Convention on the Safeguarding of the Intangible Cultural Heritage

Introduction

Zimbabwe ratified the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage in 2006 and established, in 2009, the National Intangible Cultural Heritage Committee to advise the Government on the implementation of the convention. Established under the auspices of the National Commission for UNESCO, the committee was later transferred to the Ministry of Education, Sport, Arts and Culture as the national office responsible for the implementation of the convention. At the ministry, the committee was expanded to include representatives of all statutory cultural institutions (the National Arts Council of Zimbabwe, National Museums and Monuments Commission, National Gallery of Zimbabwe, National Archives of Zimbabwe); researchers from Great Zimbabwe University, Lupane State University and the University of Zimbabwe (African Languages Research Institute); representatives of national arts and culture organization; practitioners and custodians; officials from the Department of Arts and Culture and the Department for Chiefs in the Ministry of Local Government, Rural and Urban Development, and a representative of the media. In 2011, the Department of Arts and Culture began sensitizing regional directors of education about the convention. Through these regional offices, the department has begun to establish regional intangible cultural heritage committees, which will report to the national committee.



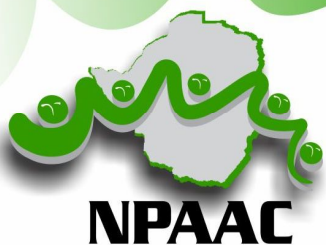
Research on Legal Instruments on Arts & Culture in Zimbabwe

Research Findings

Activities of the National Intangible Cultural Heritage Committee

In 2011, the National Intangible Cultural Heritage Committee sought the support of UNESCO Field Office (Harare Cluster Officer) to translate the text of the convention into Shona, Ndebele, Kalanga, Venda, and Tonga. Unfortunately, although these translations of the text of the convention were realized, copies of the translations have not been distributed to communities, groups and individuals concerned with the implementation the convention, or to the creative civil society. Some members of the committee responded to this observation by stating that they expected statutory cultural institutes in the national committee to distribute the English text and the translations of the convention to stakeholders in their fields of specialization. That would have meant that all arts practitioners and their organizations would have received the texts of the convention in their concerned languages from the National Arts Council and the National Gallery, while museums and custodians of heritage would have received their copies of text of the Convention from the National Museums and Monuments Commission. Traditional chiefs and local government authorities would have received the translated text of the Convention from the Department for Chiefs in the Ministry of Local Government Urban and Rural Development. The fact that these public cultural institutions have not done this may mean that these institutions are not aware of their roles in disseminating information about the convention and facilitating its implementation. One would ask what these public institutions do in terms of implementing the convention besides being members of the National Intangible Cultural Heritage Committee. The distribution of the text of the convention is part of the education and awareness-raising about the convention. This means therefore that these public institutions have not taken up education and awareness-raising about the convention as their major tasks in the implementation of the convention.

The main pre-occupation of the national committee has been the production of an initial list of intangible cultural heritage in Zimbabwe and the review of applications from organizations, institutions and groups seeking international assistance from the International Intangible Cultural Heritage Fund as well as recommending them for signature by the national entity responsible for the implementation of the convention – the Department of Arts and Culture. The committee has also been reviewing recommendations of nominations of elements of intangible cultural heritage for the Representative List, and the Urgent Safeguarding List.



Research on Legal Instruments on Arts & Culture in Zimbabwe

Unfortunately, the committee has not been able to distribute to concerned communities, groups and individual custodians and practitioners of intangible cultural heritage the tentative list of elements of intangible cultural heritage in Zimbabwe. This clearly shows the lack of capacity of the national committee to comprehensively promote the implementation of the convention. When this issue was pointed out to some members of the National Committee, they argued that the distribution of the initial list of intangible cultural heritage in Zimbabwe and the invitation of communities, groups and custodians of intangible cultural heritage to contribute to that list is a responsibility of the Department of Arts and Culture and the public or statutory cultural institutions that serve on the national committee.

Media coverage of the implementation of the convention

In 2011, UNESCO funded a workshop for selected representatives of the media (public and private, print and electronic) on how to cover activities to do with the implementation of convention and the culture programmes of UNESCO. Unfortunately results of this workshop have not yet been seen. There has been an insignificant coverage of the convention, activities, projects and programmes in the implementation of the convention and the work of the National Intangible Cultural Heritage Committee. This seems to indicate the lack of awareness about the convention among the editors and the role of the mass media in the implementation of the convention.

Capacity building of the implementation of the convention

In March 2012, UNESCO funded a national workshop on the implementation of the convention. The workshop, whose main objective was to build the capacity of Zimbabwe to implement the convention, was attended by members of the National Intangible Cultural Heritage Committee, four traditional chiefs, two media personnel and representatives of three public cultural institutions and four arts organizations. At the end of the workshop participants brainstormed and produced a list of project ideas for implementing the convention – ideas that government departments, institutions, communities, organizations and groups could use in producing projects, programmes and activities in safeguarding intangible cultural heritage. The workshop was covered on a Zimbabwe Broadcasting Corporation newscast and an article appeared in the Herald a week after the workshop.



Research on Legal Instruments on Arts & Culture in Zimbabwe

Responses of arts and culture practitioners

During HIFA 2012, twenty-one arts practitioners and arts managers were interviewed about their awareness of the 2003 Convention, their participation in the implementation of the convention, about international assistance and the International Fund for Intangible Cultural Heritage, the existence of the National Intangible Cultural Heritage Committee and its activities, and about the Intergovernmental Committee for Intangible Cultural Heritage. Only 5 respondents indicated that they had read about the convention and about the National Intangible Cultural Heritage Committee in the Herald, while 3 had heard about the convention from a programme on culture on Sport FM of the Zimbabwe Broadcasting Corporation. One respondent, who is a member of a professional dance company, indicated that their chairman had been encouraged by a member of the National Intangible Cultural Heritage Committee to approach the Department of Arts and Culture in the Ministry of Education, Sport, Arts and Culture about financial support from the International Fund for Intangible Cultural Heritage. Two respondents indicated that they had seen a news item on Zimbabwe television about a workshop on intangible cultural heritage that was also attended by chiefs.

Implications of research findings

From the responses of arts and culture practitioners interviewed and from the views of some members of the National Intangible Cultural Heritage Committee, the following are some of challenges to the implementation of this convention:

- the absence of a nation-wide awareness-raising campaign about the convention;
- the absence of a programme to engage the broad creative civil society and concerned communities of practitioners and custodians of intangible cultural heritage in the development of national strategies for the implementation of the convention;
- the absence of a strategy of informing the nation, and particularly the arts and culture sectors, on how communities, groups and individuals can apply from assistance from the International Intangible Heritage Fund for assistance in their projects, programmes and activities of safeguarding intangible cultural heritage;
- the absence of strategies of informing concerned communities groups and individuals on how to nominate their intangible cultural heritage for inscription on the Representative List and the list of



Research on Legal Instruments on Arts & Culture in Zimbabwe

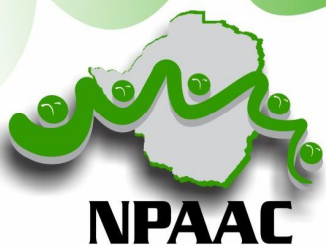
intangible cultural heritage in urgent need of safeguarding, as well as to nominate their programmes and projects to the register of best practices in safeguarding intangible cultural heritage;

- the absence of information on how concerned communities, groups and individuals can contribute to the writing of the national report on how Zimbabwe is implementing the convention;
- the absence of information on how concerned communities, groups and individuals can contribute to compilation of the national inventory of the intangible cultural heritage in Zimbabwe;
- the low profile of the National Intangible Cultural Heritage Committee and its inaccessibility to concerned communities, groups and individuals;
- the lack of a budget for the National Intangible Cultural Heritage Committee for carrying out its activities especially awareness-raising about the convention.

Recommendations

Given the aforementioned challenges to the implementation of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage, the following recommendations are made:

- establishment of provincial and district intangible cultural heritage committees, which include representatives of arts organizations, cultural institutions, local authorities and government departments concerned with culture, custodians and practitioners, and chiefs;
- extensive distribution of the text of the convention in different indigenous languages;
- convening annually of a consultative meetings at national, provincial and district levels on the implementation of the convention;
- involving the creative civil society in the compiling of a national inventory of intangible cultural heritage;
- using structures of the National Arts Council to distribute to custodians and practitioners information on how communities, groups and individual custodians and practitioners can apply for international funding assistance for programmes, projects and activities in safeguarding intangible cultural heritage in Zimbabwe;



Research on Legal Instruments on Arts & Culture in Zimbabwe

- creation of an on-line newsletter on activities, programmes and projects on the implementation of the convention managed by a team selected from the National Intangible Cultural Heritage Committee;
- proclamation of a month as National Cultural Heritage Month, which will be celebrated with meetings, lectures, exhibition, discussions in all media about the UNESCO Conventions, policy issues and the promotion of best practices in safeguarding intangible cultural heritage.

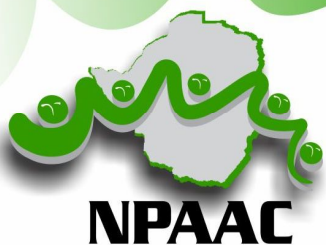
1972 Convention on the Protection of the World Cultural and Natural Heritage

Introduction

The most well known UNESCO Convention is the 1972 Convention on the Protection of the World Cultural and Natural Heritage, which Zimbabwe ratified in 1982. The convention has been promoted through the promotion of five world heritage sites: Great Zimbabwe, Khami Ruins, Matobo Hills, Mana Pools and Victoria Falls. There has, however, been limited information to citizens, especially the creative civil society, arts and culture practitioners, traditional authorities and other custodians of shrines at district and provincial levels, about the convention and the role they are expected to play in its implementation. One reason for this limited involvement of the broad spectrum of arts and culture individuals and groups, and of custodians of heritage at grassroots level, is the view that this convention is the responsibility only of statutory cultural institutions such as the National Museums and Monuments of Zimbabwe, National Archives and National Parks and Wildlife Authority.

Research Findings

Responses of members of the creative civil society, national arts and culture associations to questions about the implementation of this Convention during the HIFA 2012, showed that, while many were aware of the five World Heritage Sites in Zimbabwe, many were not aware of the existence of the convention, how it is implemented, who the key players in the implementation of the convention are and what role they are expected to play. Equally evident was the general ignorance about how a cultural or national heritage becomes a World Heritage Site; what constitutes a cultural heritage of concern to this convention and who is



Research on Legal Instruments on Arts & Culture in Zimbabwe

responsible for coming up with 'legal, scientific technical administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of cultural heritage.'

Several other questions that showed inadequate understanding about the implementation of this convention were those about what is covered in 'cultural and natural heritage'. Most respondents to these questions were not aware that 'works of monumental sculpture and paintings which are of outstanding universal value from the point of view of history, art and science' are included in the definition of world cultural and natural heritage. Except for officials of the National Museums and Monuments of Zimbabwe and in the National Intangible Heritage Committee, most people in the arts and culture sector interviewed did not know of the existence of the Africa World Heritage Fund. Of the 15 visual artists and craftspeople at the Visual Arts and Crafts Exhibition at HIFA 2012, interviewed about the 1972 Convention and its implementation, only 2 respondents knew that the five World Heritage Sites in Zimbabwe are a result of the implementation of the convention.

Implications of the research findings

From the responses of arts and culture practitioners interviewed, the following are some of the indications that there is little appreciation among many stakeholders in the arts and culture sector, or among members of arts and culture associations, about the convention and the activities, projects, programmes and institutions involved in implementing it:

- lack of awareness about the existence of the convention, objectives of the convention and the national organs responsible for its implementation;
- lack of knowledge on how the inventory of property forming part of the cultural and natural heritage in Zimbabwe is compiled and who participates in this exercise;
- lack of information among communities and institutions in the arts and culture sector on how national cultural and natural heritage are recommended for the World Heritage List, as well as what constitute serious dangers and threats to the cultural property on the World Heritage List;
- lack of information about the World Heritage Fund and how communities, groups and institutions can access international financial assistance for:

- a) projects and activities in the protection, conservation, presentation and rehabilitation of cultural property that could be recommended for tentative listing for World Heritage List
- b) undertaking studies concerning the artistic, scientific and technical problems raised protection of World Cultural and Natural Heritage
- c) provisions of experts, technicians and skilled labour for drawing up the “most advanced techniques for the protection, conservation, presentation and rehabilitation cultural and natural heritage
- d) training of staff and specialist at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage
- e) poor information about the operations of the Intergovernmental Committee (World Heritage Committee);
- f) absence of national education and information programmes that ‘strengthen appreciation and respect by the citizens of Zimbabwe of their cultural and natural heritage’;
- g) absence of national programmes that inform the public of the dangers threatening World Heritage Sites in Zimbabwe as well as information of activities being carried out in the implementation of the Convention.

Recommendations

Given the above-mentioned findings and observations about the implementation of the 1972 Convention on the Protection of the World Cultural and Natural Heritage, the following recommendations are made:

- mounting of education and awareness-raising about the convention to all parts of the country;
- translation of the text of the convention into indigenous languages and their extensive distribution;
- establishment of a national committee on protection of cultural and natural heritage that includes members of the creative civil society;
- holding of a national consultative meeting annually about the state of World Heritage Sites in Zimbabwe;



Research on Legal Instruments on Arts & Culture in Zimbabwe

- constant indication to the public as to which offices or services are responsible for the implementation of the convention;
- engagement of the creative civil society, communities and traditional authorities in the production of a national inventory of cultural and natural heritage;
- holding a national consultative meeting before the meetings of the World Heritage Committee;
- extensive distribution of the reports of the World Heritage Committee to stakeholders in the arts and culture sector

1970 Convention on the Means of Prohibiting and Preventing Illicit Import, Export and Transfer of Ownership of Cultural Property

Introduction

Zimbabwe ratified the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property in 2006. The convention is based on the principle that it is incumbent upon every State to protect the cultural property existing within its territory against the dangers of theft, clandestine excavations and illicit export. When Member States of UNESCO adopted the convention, they recognized that illicit import, export and transfer of cultural property is one of the 'the main causes of the impoverishment of the cultural heritage of countries' and that international cooperation constituted 'one of the most efficient means of protecting each country's cultural property against all dangers'.

Actions expected after ratification of the convention

Three months after depositing instruments of ratification of the convention, a state party is expected to do the following:

- set or designate and publicize a national office/ authority/ services for the protection of cultural property;
- mount educational measures to stimulate and develop respect for cultural heritage as well as spreading knowledge about the provisions of the convention;



Research on Legal Instruments on Arts & Culture in Zimbabwe

- formulate law and regulations designed to secure the protection of cultural property, particularly the prevention of illicit import, export and transfer of ownership of important cultural property and making visitors to the country aware of such laws and regulation;
- establishing and keeping an up to date, on the basis of a national inventory of protected cultural property, a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- ensuring that appropriate publicity is given to the disappearance of items of cultural property.

Research findings on the implementation of the convention

In response to questions about the implementation of the 1970 Convention, members of the creative civil society, members of arts and culture associations and institutions, interviewed during HIFA 2012, indicated that they were not aware of what property in Zimbabwe forms part of Zimbabwe's cultural property, who classifies and declares certain cultural property as 'inalienable which should not be exported' as well as who facilitates the return or recovery such cultural property. All the eight exhibitors of arts and crafts at the HIFA Arts and Crafts Exhibition who were asked about situations where authority may be needed before certain cultural properties are exported indicated that, as far as they were concerned, such an issue had never been raised with the visual arts and crafts community and retailers of arts and crafts.

The research established that there were communities that were demanding the return of cultural property that was illicitly exported out of Zimbabwe before independence. There were indications that some communities were demanding the return of the skulls (heads) of their chiefs that were taken to the United Kingdom during the first Chimurenga war of the 1890s. These demands surfaced when the walking stick of Sekuru Kaguvi was returned a few years ago. It was stressed that often the heads of chiefs were given as good examples of cultural property that must be return to their owners according to the provision of the convention.

All the eight major exhibitors at the HIFA 2012 Arts and Crafts Exhibition interviewed about the implementation of this convention could not remember national events, workshops, conferences and meetings where what constitute cultural property was articulated. They were not aware either of publications or



Research on Legal Instruments on Arts & Culture in Zimbabwe

promotional material about what cultural property cannot be exported without authority. This indicates that Zimbabwe has not domesticated the 1970 Convention and has not declared what it considers to be cultural property and whether the following listed in the convention

is what it considers as cultural property: a) elements of artistic or historical monuments or archeological sites which have been dismembered; b) antiquities more than one hundred years old, such as inscriptions, coins and engraved seals; c) rare collection and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest; d) property relating to history, including history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance; e) objects of ethnological interest; f) property of artistic interest such as: original engravings, prints and lithographs; pictures, paintings and drawings produced entirely by hand on any support and in any material; original engravings, prints and lithographs; rare manuscripts, old books, documents and publications of special interest (historical, artistic, scientific and literary); g) products of archaeological excavations.

All retailers of art and crafts at art markets at the National Gallery, at the Newlands Arts and Crafts market and the Avondale Arts and Crafts market interviewed, indicated that they were not aware whether Zimbabwe had adopted or introduced a certificate in which the exporting agency/ individual/ organization specifies that the export of cultural property in question is authorized. They all indicated they were not aware of the existence of any regulation that prohibits the exportation of cultural property from Zimbabwe unless accompanied by an export certificate or of any regulation prohibiting the export of cultural property.

It was evident, therefore, that it is not clear who the competent authority in Zimbabwe is on matters related to the import, export and transfer of ownership of cultural property. Is it the National Gallery, National Museums and Monument Commission or the National Arts Council?

It was also evident that it is not clear, to most practitioners in the arts and culture sector, which national authority or office is responsible for the protection of cultural property in Zimbabwe, or who is responsible for producing periodic reports to the General Conference of UNESCO giving information on legislative and administrative provisions that have been adopted and other actions that Zimbabwe has taken for the application of the convention.

Also evident was the fact that many stakeholders in the arts and culture sector were not aware that they can apply for technical assistance from UNESCO in areas



such as educational and awareness-raising campaigns, consultations and expert advice on the implementation of the convention.

Recommendations

Given the above findings and the general state of affairs in term of the implementation of the Convention on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property the following recommendations are made:

- designation of one statutory cultural institution as a national authority on issues to do with the protection of cultural property and its export;
- formulation of a comprehensive national cultural heritage policy;
- mounting of educational and awareness-raising campaigns about the convention in all parts of the country;
- translation of the text of the convention into indigenous languages;
- creation of a National Committee for the Convention;
- introduction of an appropriate certificate in which an exporter would specify that the export of a cultural property in question is authorized;
- engagement of the creative civil society in the production of a national inventory of protected cultural property or a list of important public and private cultural property whose export would constitute an appreciable impoverishment of the national cultural heritage;
- convening, regularly, a stakeholders consultative meeting on the implementation of the convention;
- convening of a national consultative meeting before the meetings of the Intergovernmental Committee and the General Assembly of the Convention are held.

2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions

Introduction

Zimbabwe ratified the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expression in 2008. In 2001, the UNESCO General



Research on Legal Instruments on Arts & Culture in Zimbabwe

Conference adopted the Universal Declaration on Cultural Diversity. The declaration was widely circulated. The convention dealt with the following themes of the declaration:

- the need to recognize that cultural goods and services convey identity, values and meaning, and consequently cannot be considered as mere commodities or consumer goods like any other;
- the need for states to take appropriate measures to protect and promote diversity of cultural expressions while ensuring free flow of ideas and works;
- the need to define international cooperation as each form of creation bears the seed of a continuing dialogue.

The convention 'addresses the many forms of cultural expression that result from creativity of individuals, groups, and societies and that convey cultural content with symbolic meaning as well as cultural values that originate from or express cultural identities.' Its main objective is the 'protection and promotion of the diversity of cultural expressions.'

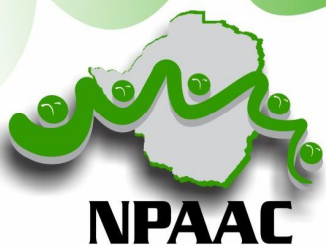
Expected actions after the ratification of the convention

As per provisions of the convention, three months after depositing the instruments of ratification Zimbabwe was expected to:

- take steps to ensure an environment enabling individuals and social groups to create, produce, disseminate, distribute and have access to their own cultural expressions;
- submit a report to UNESCO every four years on measures taken to protect and promote the diversity of cultural expressions within Zimbabwe;
- undertake education and awareness-raising about the convention and to promote understanding of the importance of protecting and promoting the diversity of cultural expressions;
- Identify and make known a national point of contact on issues related to the implementation of the convention.
-

The convention provides the following tentative list of measures parties to the convention may adopt in the implementation of the convention:

- regulatory measures aimed at protecting and promoting the diversity of cultural expressions;



Research on Legal Instruments on Arts & Culture in Zimbabwe

- measures that provide opportunities for domestic cultural activities, goods and services to find their place among the whole range of available activities, goods and services;
- measures aimed at providing public financial assistance;
- measures aimed at providing independent domestic cultural industries and activities in the informal sector with effective access to the means of production, dissemination and distribution of cultural activities , goods and services;
- measures aimed at encouraging all cultural stakeholders (public and private institutions, artists and cultural professionals, non-profit organizations) to promote the free exchange and circulation of ideas and cultural expressions;
- measures aimed at encouraging and supporting artists and all creators;
- measures to promote media diversity, particularly public broadcasting services.

Research findings: the state of implementation

In 2010, the UNESCO Field office (Harare Cluster Office) organized a one day workshop for heads of arts associations, cultural institutions and statutory cultural institutions to make them aware of the convention and the call for applications for financial assistance from the International Fund for Cultural Diversity. Since then there has been no consultative meetings, workshops, conferences about the convention or programmes, projects and activities in implementing it, except messages from the National Commission for UNESCO informing stakeholders in the arts and culture sector about calls for applications for financial assistance from the International Fund for Cultural Diversity. Except for programmes, projects and activities carried out by the National Arts Council during the Culture Week, which incorporates celebration to mark 21st May as the World Day for Cultural Diversity for Dialogue and Development, there are no other activities and programmes aimed at the implementation of the convention. The Culture Week, which has a national launch at one provincial headquarters and provincial launches at different provincial headquarters, is the most prominent project relating the objectives of the convention, even though the project is dominated mainly by performing arts events, visual exhibitions and demonstrations and speeches read by senior government officials. In most of the activities held during the Culture Week, no mention is made of the convention, its objectives, its administrative organs, how different communities participate in implementing the



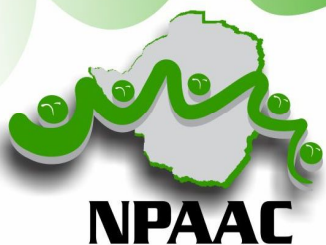
Research on Legal Instruments on Arts & Culture in Zimbabwe

convention, or how communities, groups and concerned cultural practitioners can access international assistance from the International Fund for Cultural Diversity. Plans for celebrating Zimbabwe Culture Week 2012 do not contain the international grassroots campaign 'Do One Thing for Diversity and Inclusion', which aims at 'raising awareness world wide about the importance of intercultural dialogue, diversity and inclusion; at building a world community of individuals committed to supporting diversity; and at combating polarization and stereotypes to improve understanding and cooperation among people from different cultures'. The 2012 plans for celebrating the World Day for Cultural Diversity for Dialogue and Development did not contain activities for promoting the '10 Things You Can Do to Celebrate the World Day for Cultural Diversity for Dialogue and Development'.

Zimbabwe has more than 31 arts and culture festivals at district, provincial and international level, which are organized by the creative civil society – trusts, foundations, companies, national arts associations, cultural entrepreneurs and non-governmental organizations – as well as by statutory cultural institutions such as the National Arts Council. In many respects these arts and culture festivals should be given national policy status and recognition as some of the most important activities in the implementation of the convention and as means of attaining what the Universal Declaration of Cultural Diversity promoted as the task of addressing 'the dual challenge of cultural diversity: on one hand , ensuring harmonious interaction among people and groups with plural, varied and dynamic cultural identities as well as a willingness to live together; and on the other hand defending creative diversity.'

This convention should have become the most popular convention because it focuses on the diversity of 'cultural expressions as circulated and shared through cultural activities, goods and services' and because its main objective is to promote the strengthening of the 'five inseparable links of the same chain; namely creation, production, distribution/dissemination, access and enjoyment of cultural expressions conveyed by cultural activities, goods and services.'

From the responses of sixteen performing artists, two arts managers, one festival manager and seven visual artists interviewed during the HIFA 2012, about the implementation of this convention, it was evident that the list of measures Zimbabwe was expected to adopt in implementing the convention has not been considered and that activities that are consistent with actions expected in the implementation of the convention occurred outside any national plan of action in the implementation of the convention. Many of those interviewed stressed that



Research on Legal Instruments on Arts & Culture in Zimbabwe

what they were doing was in fact action towards the protection and promotion of the diversity of expression, even though they had never heard of the convention or participated in activities on its implementation. Equally evident from these responses was that Zimbabwe has not taken some of the actions she was expected to take three months after ratifying the convention.

Recommendations

Given the situation described above, the following recommendations are made:

- making known to the stakeholders in the arts and culture sector – the creative civil society, cultural institutions, arts and culture organizations – the national contact point on issues to do with convention or the national office responsible for the implementation of the convention;
- establishing a national committee on the promotion of cultural diversity that includes representatives of the creative civil society;
- translation of the text of the convention into indigenous languages and extensively distributing the translated texts to cultural stakeholders through arts and culture organizations and arts and culture events;
- publicizing to cultural stakeholders calls from the International Fund for Cultural Diversity for financial assistances towards projects, programmes and activities in the protection and promotion of the diversity of cultural expressions;
- using the Culture Week and the World Day for Cultural Diversity for Dialogue and Development to hold public education and awareness about the convention and what measures have been taken to promote the protection and promotion of the diversity of cultural expressions; distribute the text of the convention and lecturers on different aspects of the convention and its implementation.
- establishing a Zimbabwe Coalition for Cultural Diversity and joining the International Federation of Coalitions for Cultural Diversity ;
- holding of a national consultative meeting on the implementation of the convention before the meeting of the Intergovernmental Committee on Cultural Diversity is convened.
- development of a model report format that the creative civil society can use to contribute to the production of a national report on the implementation of the convention, which Zimbabwe is expected to submit to UNESCO this year;



Research on Legal Instruments on Arts & Culture in Zimbabwe

- engagement of the creative civil society in the promotion of the convention and using all arts and culture events to publicize the convention.

Conclusion

The choice of the four UNESCO Conventions in the field of culture that were the subject of the research was based on the understanding that these were international legal instruments that featured prominently in discussion at various forums held in the last two years on issues to with review of the National Cultural Policy or were concerns of the creative civil society in terms of being involved in the their implementation and benefiting in the process. The time available for this research was inadequate for the purpose of interviewing arts and culture practitioners, custodians of cultural heritage, researchers and leaders of cultural institutions outside Harare. Therefore the researcher hopes that the sample of respondents in Harare and the resultant responses adequately demonstrate the state of affairs nationally in terms of the implementation of the UNESCO Conventions in the field of culture. In all the cases, arts and culture practitioners, retailers of arts and crafts, managers of artistic events, members of the National Intangible Cultural Heritage Committee and officials from statutory cultural institutions interviewed did not want their names and designations reflected in the report of the research.



National Arts Council Festival Guidelines: Applications to and Implications for the Arts and Culture Sector

Research report by Nehemia Chivandikwa and Ngonidzashe Muwonwa

Summary

Research investigated general and specific principles of the guidelines:

- To evaluate the strengths and weaknesses of the guidelines
- To determine their application to and implications for the culture sector
- To contribute to issues of governance in the culture sector

RESEARCH undertaken in April 2012 on the rationale that there was urgent need to review and critique legislation and policies instituted between 2000 and 2008.

MAJOR RESEARCH FINDINGS

1. Between 2000 and 2009, arts festivals became very popular as mechanisms to re-organize cultural products in the context of economic challenges and to make artistic works accessible
2. Between 2000 and 2009, artists sought innovative ways of staying afloat and minimizing operational costs and risks
3. The decision to regulate festivals was not based solely on cultural interest but was also part of political strategy (Preamble of guidelines: "In recent years, the nation has witnessed a proliferation of so-called Arts Festivals being hosted country-wide. Admittedly some of the Arts Festivals were held with ulterior motives, particularly those with political connotations.")
4. The guidelines were crafted at a time when the ruling government responded to critical challenges to its legitimacy
5. The guidelines were crafted at a time when legal and extra legal processes were designed to contain the increasingly restless civil society, media and arts and culture sector (AIIPA 2001, POSA 2002, Broadcasting Services Act 2001). They were designed:



- to monitor, manage and regulate public debate
- to curtail criticism of public institutions, alternative viewpoints and diversity of thought in the imagining of the nation
- to co-opt cultural products into narrow frameworks of nation-building that did not entertain oppositional readings of national events
- to rebuff internal and external challenges to Zimbabwean nationhood

CRITICAL DIMENSIONS OF THE GUIDELINES

1. All arts or arts related festivals must be organised by registered organisations. No arts festival can be hosted by any organisation or individual(s) without being properly registered in terms of NACZ Act of 1985 and Statutory Instrument 87 of 2006
2. All regular arts or arts related festivals should be self sustaining (NACZ will require proof of funding before registering any arts or arts related festival)
3. A properly constituted Board of Directors composed of reputable individuals must be in place before any arts festival can be held
4. Each arts or arts related festival must have a proper programme of events, indicating venues, time slots and number of days – to be lodged with NACZ three months before the event
5. NACZ reserves the right to suggest changes to themes of festivals that are deemed inappropriate
6. At least 50% of the participating acts or productions should come from the community in which the festival is held
7. A full narrative and financial report of the festival shall be submitted to NACZ
8. A festival named district must feed into an existing provincial festival and a provincial one into the national and national into a regional or international festival
9. All service providers should be local. It will be considered an act of misconduct for a festival to contract a service provider outside the locality of the festival



Research on Legal Instruments on Arts & Culture in Zimbabwe

PRINCIPAL FINDINGS OF THE RESEARCH

1. Guidelines are authoritarian, turning NACZ into a state agent rather than an arts regulatory body
2. Guidelines border on infringing and curtailing freedom of cultural expression
3. Guidelines institute bureaucratic delays
4. Guidelines do not add value to the parties concerned nor give credence to the festival as other state agents require their own clearance of such events
5. Registration process is tedious and wastes time
6. The demand that a festival is self-sustaining is not feasible
7. Guidelines are silent on the registration fee of \$150 that anyone seeking to register their festival is forced to pay
8. Guidelines promote cultural regionalism and hinder intercultural exchange
9. Guidelines were targeted to stop linkage between mainstream civil society and art-based organizations
10. Guidelines have contributed to the polarity that exists between NACZ and artists
11. Guidelines occupy a symbolic space that represents the government's incessant need to monitor and regulate activities in communities
12. Guidelines stand out as censorship of artistic and cultural production

RECOMMENDATIONS

1. Urgent review of the guidelines to incorporate the life experiences of those involved in the arts and culture sector in Zimbabwe
2. Guidelines should be re-drafted to ensure that they encourage arts entrepreneurship rather than police the arts
3. NACZ should learn from the concerns of those in the arts and culture sector before rushing to implement policies that impact on operations of those in the sector
4. NACZ should encourage the proliferation of arts festivals outside the official eye



5. NACZ should concentrate on strengthening cultural institutions
6. Festivals should be regarded as critical cultural spaces for citizen participation, spaces for meeting and debating about communal issues.

Research Report

Brief Project Description and Context

The purpose of this project is to explore the National Arts Council Festival Guidelines, their application and implication to the cultural sector in Zimbabwe. The research sets out to investigate the general and specific principles of the guidelines, the main cultural policy issues and priorities outlined in the guidelines as a basis to evaluate the strength and weaknesses of the guidelines. Such a task has not been done previously and has become urgent as the Festival Guidelines have generated immense debate amongst stakeholders. The Guidelines come against a background of government control in areas of production of information and cultural material. In a desire to respond to internal and externally induced 'threats' to Zimbabwean nationhood as alluded to by cultural activists like Ngugi wa Mirri, Dr Vimbai Chivaura and Dr Tafataona Mahoso, the government implemented a number of projects such as the National Youth Service, National Strategic Studies and 100 per cent Local Content. These were a direct response to the need for building renewed patriotism and national consciousness through the reverberations of 'patriotic history' (Ranger 2003:3). These projects represent some of the few post-independence cultural programmes instituted by the government to deliberately shape a nationalist cultural policy despite the nationalist ideology of the national liberation since independence. In the post-2000 era, the government now seemed eager to upgrade cultural policies, but one may ask whether this was only to use culture as a partisan weapon in the political contestation, as in the introduction of a national youth service to teach patriotism, discipline and appreciation of Zimbabwean culture (Palmberg 2004:iv). The Zimbabwean government introduced a local content policy on radio and television broadcasting to 'reduce' influences of alien culture. The policy on local content was passed on April 4, 2001 in the Broadcasting Services Act of 2001. Unlike the many other laws and policies that the government instituted between 2000 and 2008, the National Arts Council Festival Guidelines have not been reviewed and critiqued to analyze their goals and intentions. There are criticisms that they are instruments by the state, open to abuse by governing elites to co-opt cultural



Research on Legal Instruments on Arts & Culture in Zimbabwe

products into the narrow frameworks of nation-building, which do not entertain oppositional readings of national events and socio-political developments in the country. It is against this background that this current report is produced. The study is an attempt to investigate and analyze the effects of the guidelines on the cultural sector in Zimbabwe. Between 2000 and 2009, Arts Festivals became very popular as mechanisms to re-organize cultural products in the context of economic challenges and make accessible artistic works. The economic meltdown that the nation was going through forced those in the cultural industry to innovate ways of staying afloat and also to minimise the operational costs and risks involved in the industry.

Research Rationale

This research is part of an on-going process of responding to urgent issues, policies and laws that affect and influence the operations of arts and cultural organisations in Zimbabwe. The history of Zimbabwe's arts and culture sector bears evidence of a lack of concerted effort to document and strategically respond to regulations that have a bearing on the sector. Furthermore, the research seeks to contribute to issues of governance in the cultural sector by analyzing the National Arts Council Festival Guidelines as one of the products coming from Zimbabwe's principal body of arts and culture in Zimbabwe. This exercise is important as policies and laws are supposed to respond to the lived experiences of the individuals that it seeks to serve. This is in the hope of contributing to the opening up of the arts and culture sector in Zimbabwe, to make it vibrant and professional. This is in line with the many UNESCO Conventions and Standards that the Zimbabwean government has ratified, which if fully implemented will immensely contribute to the growth of the arts and culture sector. This research, based on policy review, is important to further strengthen the operations of the arts and culture sector in Zimbabwe. It is therefore an important document to be accessed by all stakeholders in the arts and culture sector to streamline their operations. For the principal organization responsible for the guidelines, the National Arts Council should find this project relevant as it explores responses from the end users of the guidelines, which the guidelines seek to serve. The research becomes an important base to guide the National Arts Council in the implementation of the guidelines and for the institution of amendments.

Research Objectives

The research is guided by the following research objectives:



- a) To examine the National Arts Council Festival Guidelines
- b) To interrogate and analyse the impact of the guidelines to the operations of the arts and culture sector
- c) To systemically respond to views and concerns of the National Arts Council and arts and culture sector concerning the Festival Guidelines
- d) To offer recommendations concerning the implementation of the National Arts Council's Festival Guidelines

Research Methodology

The study relied on a combination of methods with the aim of providing deeper insight into the subject under investigation. Jensen and Jankowski (1991) recommend the employment of a variety of techniques in data collection. To approach a field of study using several methods is commonly known as 'triangulation', which may 'help to uncover unexpected dimensions of the area of inquiry' and 'assist in constructing a more encompassing perspective on specific analyses, what anthropologists call "holistic work" or "thick description"' (*ibid.* 1991:63). A multiple method strategy serves as a base for the research design as well as a method, which allows adjustments along the way. Methodological triangulation is in this study executed through different methods for data collection and analysis. It included the following methods:

- a) Academic research

The method ensured that the research analysed, within an academic framework, the National Arts Council as an organization for the regulation of cultural activities. Furthermore, the need to understand the historical dimension of festivals, their socio-cultural and political dimensions made this method central.

- b) Interviews

Interviews were undertaken formally and informally with relevant stakeholders, who included National Arts Council officials, arts and culture academics, arts promoters and general artists.

- c) Document analysis and content analysis

As the research is policy-based, the researchers found this method relevant as documents such as the National Arts Council Festival Guidelines, Zimbabwe's Cultural Policy and other documents were to be analysed.

Relevant primary and secondary publications were also consulted. These included:

- a) newspapers, both electronic and print versions



- b) journals and,
- c) published and unpublished books

Historical Perspective of the Guidelines

The concept of communal festivals is not new to Zimbabwe and Africa. Festivals have been traditionally part and parcel of most Zimbabwean communities to celebrate communal experiences. During the colonial era, the colonial administration enacted the Censorship and Entertainment Control Act in 1967 in order to control and manage communal thinking and creativity. To counter this control, liberation strategists organised night vigils or 'pungwes' to continue communal interaction and create a platform for ideas transfer and community building. This research would like to argue that these 'pungwes' were a form of festival. The successful dislodging of colonial rule in Zimbabwe did not however lead to continued support for communal initiatives and grassroots political mobilization. The post-independence era developed under the banner of centralisation and constrained political education. The arts and culture sector was not spared, as numerous cultural products deemed to be against the essence of the government's socialist agenda were banned. For example, Ravengai (2008) points out that Cont Mhlanga's *Workshop Negative* was banned as it criticised the post-independence racial tensions. He points out that the entire executive of the then National Arts Council was fired as they had financed the national tour of *Workshop Negative*. This serves as a harsh reminder that the National Arts Council as a parastatal must be approached with caution. Turning to the current situation this research seeks to elaborate, the research begins from the realisation that the National Arts Council responded to the proliferation of arts based festivals with suspicion. They have identified that in recent years, festivals have taken 'another' direction where different cultural expressions have been showcased for a fee. The Council noted with concern that many organisations have begun to use the festival approach as a means of bringing people together in order to pass on 'certain' messages. The preamble to the Festival Guidelines notes that:

In recent years, the nation has witnessed a proliferation of so-called 'Arts Festivals' being hosted country-wide. Admittedly, some of the Arts Festivals were held with ulterior motives, particularly those with political connotations.

The above statement points to the fact that the decision to regulate festivals was not merely based on cultural interests but also part of political strategy. The Council concedes that the guidelines shall ensure that all Arts Festivals are held in tandem with the country's aspirations in-so-far as the development of the



Research on Legal Instruments on Arts & Culture in Zimbabwe

creative industries is concerned. The guidelines were crafted within the 'Inclusive Government', which ushered in hope of socio-political freedom. However, closer analysis of the period under review shows that it was a time of continuity from the 2000-2008 period, which represents a time frame in which Zimbabwe government accentuated discourses of nation. It was a period when the ruling government responded to the critical challenges to its legitimacy by undertaking reconstructive processes in socio-economic and political spheres, which had the effect of redefining the national contours. Faced with an unprecedented 'threat' to the nation's political security, the ruling elite resorted to both legal and extra-legal processes designed to contain the increasingly restless civil society, media and arts and culture sector. Between 2000 and 2009 the government created a 'mediated' public sphere which it defined and dominated with its 'official' or 'national' ideology and in order to monitor, manage, and regulate public debate and influence the 'daily plebiscite' (Renan: 1881, p. 3) of Zimbabwean nationhood, it passed various legislation. These included the Public Order and Security Act (2002), which regulated the holding of 'public meetings', processions and demonstrations, and the Access to Information and Protection of Privacy Act (2002), earmarked to set parameters for the operations of media houses in Zimbabwe. The third restrictive law was the Broadcasting Services Act (2001) that made provisions for the establishment of a broadcasting authority responsible for regulation of frequencies and allocation of licences to new broadcasters. The BSA contains several clauses that make it difficult for new players to enter the broadcasting market, which to some extent explains why after its introduction, not a single private broadcaster has been licensed. Such laws had the effect of institutionalizing fear into society (Lush and Khupe: 2005, p. 2), and further limiting the public sphere to curtail criticism, alternative viewpoints and diversity of thought in the imagining of the nation. The laws also represent the mainstay of the Zimbabwe National Union-Patriotic Front (ZANU-PF) efforts at rebuffing internal and external challenges to 'Zimbabwean nationhood'. This research becomes an analysis to investigate whether the measures elaborated above attempted to hone in and dovetail the National Arts Council into the 'national agenda'. It becomes imperative to analyse the National Arts Council's Festival Guidelines against this background of social and cultural re-engineering of national values to build a renewed sense of nationhood, especially among the young people that the government was so eager to institute⁶.

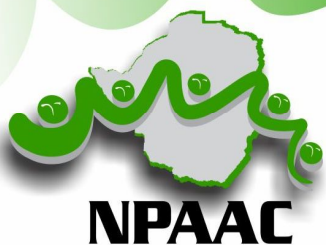
⁶ Initiatives such as Youth Training centres and remodelling of high school and tertiary history syllabi were some of the attempts to influence the young people into accepting the liberation rhetoric.



General Objectives and Principles of Festival Guidelines

The following are the Guidelines for Arts Festivals as extracted from the policy document:

1. All Arts or Arts Related Festivals must be organised by registered organisations according to the National Arts Council of Zimbabwe Act of 1985. However, if the festival is a regular event, it should be registered by NACZ, independent of the arts and culture organisation. No arts festival can be hosted by any organisation or individual(s) without being properly registered in terms of the NACZ Act of 1985 and SI 87 of 2006.
2. An Arts or Arts Related Festival shall be characterised by one or more of artistic genres (dance, music, theatre, film, drama, poetry, visual arts, literary or cultural activities). However, one genre festivals should correctly be named such, e.g. Music Festival.
3. All regular Arts or Arts Related Festivals should be self sustaining. National Arts Council of Zimbabwe will request proof of funding before registering any arts or arts related festival. For requirements on registering with NACZ we refer you to 'Regulation on Registering as an Arts Promoter.'
4. A properly constituted Board of Directors composed of reputable individuals must be in place before any Arts Festival can be held to ensure transparency and accountability to the paying public and funders of the festival.
5. Each Arts or Arts Related Festival must have a proper programme of events, indicating venues, time slots and the number of days and these should be lodged with the National Arts Council of Zimbabwe three months before the event.
6. An Arts or Arts Related Festival shall have a theme at any given time that guides all proceedings and shall assist in impact assessment of the festival. All Arts Festival Themes need to be made available together with the programme to NACZ prior to the event. NACZ reserves the right to suggest changes to themes that are deemed inappropriate.
7. Arts or Arts Related Festivals shall have clear objectives that are not contrary to the aspirations of the communities in which they are held. Such objectives must also be in tandem with the goals of the creative industries at any given time and the country's economic development process as well.
8. Organisers of Arts or Arts Related Festivals are expected to give unlimited free access to at least 3 NACZ appointed officials throughout the festival.
9. Community involvement is of paramount importance and must be taken into cognisance during all Arts or Arts Related Festivals. At least fifty percent (50%) of



Research on Legal Instruments on Arts & Culture in Zimbabwe

the participating acts or productions should come from the community in which the festival is being held.

10. Upon the completion of the Arts or Arts Related Festival, a full narrative and financial report shall be submitted to NACZ in order to ensure transparency and benefits accruing to the arts sector are determined.

11. Unless a waiver has been given by NACZ, generally Arts or Arts Related Festivals should be able to show clear synergies with other existing festivals. A festival named 'district' should feed into an existing 'provincial' festival, and a provincial to the national and national to a regional or international. Ordinarily NO festival with a geographical nomenclature will be registered or approved if it cannot show a clear link with other higher level festivals. Waivers will however be given by the Director of NACZ in circumstances deemed necessary.

12. All service providers should be locals, unless the festival organisers can prove that locals cannot provide a similar service. It will be considered an act of misconduct for a festival to contract a service outside the locality of the festival if it could be proved that such services are available in a particular locality. It is the responsibility of the festival to check for what services are available in a particular area. However, should festival organisers be in any doubt, they should check with the nearest NACZ office for information.

13. The festival should clearly indicate whether it allows paying or non-paying audiences. If it has entry fees, this should be both reasonable (especially for the local audience it is meant to benefit) and clearly indicated including the shows that are for free. In all cases, this should be indicated in all publicity materials of the festival including all communication to NACZ related to the festival.

Principal Findings

This research which had as its main goals to examine the National Arts Council Festival Guidelines, interrogate and analyse the impact of the guidelines to the operations of arts and culture sector and systemically respond to views and concerns of the National Arts Council and arts and culture sector concerning the Festival Guidelines found out the following from arts promoters and artists:

- a) The guidelines were generally authoritarian turning National Arts Council into a state agent rather than an arts regulatory body
- b) The provisions of the guidelines bordered on infringing and curtailing freedom of cultural expression
- c) The requirements of registration imposed by the guidelines instituted bureaucratic delays

- d) The licensing of a festival under the guidelines did not add any value to the parties concerned and neither did it give credence to the festival as other state agents such as police still required their their own clearance of such events
- e) Some of the provisions of the guidelines were vague, such as 'impact assessment' of festival before granting licence
- f) The guidelines on paper seem to have the interest of the community and artist at heart, which is however not supported by any other tangible efforts on the ground to promote local arts and develop grassroot artists
- g) The registration process was tedious and time wasting. Valuable time was lost trying to get clearance to the detriment of other festival planning activities
- h) The arts and culture industry in Zimbabwe is evidently poorly financed and to demand that a festival should be self-sustaining is not feasible
- i) There are few arts promoters in Zimbabwe who have organised arts festivals and that alone must be testimony that the ardent organisers of festivals are just economically challenged artists coming together to market their artistic productions
- j) The guidelines are silent on the registration fee of \$150-00 that anyone seeking to register their festival is forced to pay
- k) The National Arts Council reserves the right to change a festival theme deemed 'inappropriate'— this is testimony of controlling and limiting cultural production
- l) The guidelines push the National Arts Council into the moral high ground when they are empowered to clear a festival when the Council alone has been satisfied that the festival will give tangible benefits to the development of arts and culture in Zimbabwe. This is both vague and open to abuse as a provision
- m) The guidelines promote cultural regionalism, a hindrance to intercultural exchange
- n) The guidelines are only targeted to stop the growing linkage between mainstream civil society organisations and art-based organisations that were uniting to set the agenda for pro-democratic structures in Zimbabwe
- o) The Festival Guidelines attempt to thwart the development of cultural spaces for citizen participation and meeting of different people away from official eyes
- p) The guidelines have a negative tone against festivals when in actual fact they are instrumental in building audiences and consumers in this age of entertainment

- q) Furthermore, they were the first step into sucking out the lifeline of arts organisations who have innovated mechanisms to market their works and promote each other during the festivals
- r) The principle guiding factor behind the promulgation of the guidelines is suspicion of the arts and culture sector as contributing to the opening up of alternative platforms for socio-political development in Zimbabwe
- s) The 'guardian' function that the National Arts Council seeks to play through the imposition of the guidelines is based on misplaced assumptions, which position communities as being helplessly exposed to and at the mercy of cultural products

However, in an attempt to give balance to the research it is important to give room to the official position from the National Arts Council about the Festival Guidelines. Speaking at an Indaba on Arts and Culture in Zimbabwe, Mr Elvis Mari, the Director of the National Arts Council, defended the usefulness of the Festival Guidelines, views that were shared by other National Arts Council Officials interviewed. National Arts Council defended the guidelines as summarised below:

- a) As genuine and serving the communities in which different festivals were to be hosted
- b) The mandate of the National Arts Council is to regulate the cultural activities of communities and hence the guidelines were a step in the right direction towards harmonising cultural activities within communities
- c) Furthermore, the National Arts Council as the mother body of arts organisations in Zimbabwe has the prerogative to know of all festivals that taking place for monitoring purposes, hence the requirement to register
- d) There has been a tendency to duplicate each other in the arts which brings confusion to the arts sector, hence a need to streamline arts activities and demand clear focus from new festivals in order for them to contribute tangibly to the development of arts and culture in Zimbabwe
- e) The aim of these guidelines was not to stifle the creativity and freedom of communities and their right to celebrate, but was intended to protect the public against individuals and organisations that hide behind the term festivals to advance other agendas unrelated to the wish by communities to express their cultural values and pass these on to the younger generation (*this is also as it appears in the Guidelines*)
- f) The guidelines were operating as principles to guard the arts and culture sector from 'fly-by-night' festival organisers out to fleece funds from gullible donors.



Conclusions from Findings

From the above view points, it is clear that the National Arts Council and artists within the cultural sector have divergent and conflicting views over the guidelines which are to guide the operations of art and culture practitioners in Zimbabwe. This evident struggle is testimony to the fact that there is no clear understanding between the policy maker and individuals the policy seeks to serve. The artists view the guidelines as curtailing the creative expression of artists while the Arts Council views the document as protecting the artists from abuse and misuse. In such a case it is difficult to see how the guidelines can be appreciated as the polarity that exists creates a divide between the National Arts Council and artists. Such a scenario is unhealthy for the development and operations of the arts and culture sector. There seems to be no common ground between the two poles. The artist is however at the receiving end of the policy document which demands total compliance, with consequences accruing in the event of misconduct. This has negative implications on the operations of arts and culture organisations with a passion to promote their activities through festivals. The impact of the guidelines from the findings shows that they are generally negative and curtail the creative expression of arts and cultural organisations, imposing and limiting the freedom of expression of individuals and preventing freedom of association within and between communities, all constitutional rights of individuals and communities. The research highlights that the guidelines are a product of suspicion on the part of the National Arts Council representing the government and have been received as such by the artistic constituency. The guidelines therefore occupy a symbolic space, which represents the government's incessant need to monitor and regulate activities within communities. They function negatively in representing the ever present struggle between the state and the artist. Ngugi wa Thiong'o (1988:2) argues that the struggle between the arts and state can be seen in performance in general and in the battle over performance space in particular. The guidelines reveal that the state desires to control performance of arts and cultural works by determining the manner and circumstances of their delivery. The main ingredients of performance are place, content, audiences and time. The state has its own areas of performance and so has the artist but as the guidelines reveal the state, through the National Arts Council, seeks to limit the performance space of artists within the arts and culture sector. Festivals provide an important platform for the interface between local communities and artists (Lentz: 2001: 47). They function as a public arena where local cultural identities are articulated within a framework negotiated by participants. It seems the government through the National Arts Council is aware of the fact that cultural festivals operate as sites of cultural and political innovation and arenas where socio-political identities and



Research on Legal Instruments on Arts & Culture in Zimbabwe

culture are staged to confront state policies. This means that festivals have the potential to contribute to the creation of new public spheres, integral to the creation of an inclusive and democratic nation. The 'guardian' function that the National Arts Council seeks to play through the imposition of the guidelines is based on misplaced assumptions, which position communities as helplessly exposed to and being at the mercy of cultural products. On the contrary, community members are able to determine the effects of particular ideological issues, and change within communities is never necessarily stoppable with or without state intervention. All these arguments attempt to show that the guidelines as censorship of artistic and cultural production are not necessary and are limited in their scope and effect.

Key Recommendations

The following are a few summary recommendations:

- 1) An urgent review of the guidelines is imperative to incorporate the lived experiences of those involved in the arts and culture sector in Zimbabwe
- 2) The arts and culture sector must not be officially sanctioned, and must be allowed to exist without the baggage of patronage and dragged down by state ideology. The guidelines are unnecessary and work against the sector flourishing
- 3) Festivals are a public expression of cultural practice, which represent a primary way that people articulate their collective identities. The guidelines infringe communal freedom that is integral to the formation and sustaining of social groups
- 4) The guidelines should be redrafted to ensure that they encourage arts entrepreneurship, rather than police the arts and culture sector, which is under-funded
- 5) The current status of the arts and culture sector requires the development of social capital and cultural citizenship rather than necessarily concentrating on economic impact as the guidelines insist
- 6) The National Arts Council must concentrate on strengthening cultural institutions and therefore must encourage the proliferation of arts and culture activity outside the 'official eye'
- 7) The National Arts Council must learn from the concerns of those in the arts and culture sector before it rushes to implement policies that have a bearing on the operations of those in the sector



- 8) The National Arts Council must respond 'positively' to developments in the arts and culture sector that ensure that the Council becomes a custodian of cultural expression
- 9) Festivals must be encouraged as they are cultural spaces for citizen participation, spaces for meeting and debating about communal issues
- 10) The Festival Guidelines must be reviewed to take cognisance of the fact that the arts and culture sector is not a 'closed' sector as it can interact with other sectors of society such as mainstream civil societies to expand its effectiveness

References

- Lentz, Carola (2001) *Local Culture in the National Arena; The Politics of Cultural Festivals in Ghana*, African Studies Review, 44, 3, pp 47-72
- Lush, D. and Khupe, T. (2005) *What Crisis? Free Expression and Access to Information in Zimbabwe* in Media Support Strategies for Zimbabwe, MISA, Zimbabwe
- Ngugi wa Thiong'o (1988) *Enactments of Power: Politics of Performance Space*, TDR, 41,3, pp 11-30
- Palmberg, Mai (2004) *Music in Zimbabwe's Crisis*, in Thorsen, S.M (ed) *Sounds of Change: Social and Political Features of Music in Africa*, SIDA Studies No 12, Amsterdam, Sweden
- Ranger, Terence (2004) *Nationalists Historiography, Patriotic History and the History of the Nation: Struggle over the Past in Zimbabwe*, Journal of Southern African Studies, 30(2): pp215-234
- Ravengai, S. (2008) *Political Theatre Under Threat: The Impact of PSA, AIPPA and Censorship on the Theatre Making in Zimbabwe*, Savanna Trust, Harare
- Renan, E. (1881) (1990) *What is a Nation?* in Bhabha, H. (ed) *Nation and Narration*, Routledge, London pp 4-13



National Gallery of Zimbabwe Act

Research Report by Jacob Mapara and Shumira Nyota
Research undertaken in April 2012

Summary

HISTORICAL PERSPECTIVE

1. The National Gallery was built mainly with funds from a bequest of £30 000 from Sir James McDonald to create a trust 'for the people of the colony to establish an art gallery and art museum in Salisbury'. Further funds donated by the business community amounting to £150 000 enabled the building of the Gallery to be achieved and the Gallery to open in 1957
2. The Gallery was conceived as an institution for artistic representation for the Federation of Rhodesia and Nyasaland (1953-1963)
3. In 1952 the first Board of the National Gallery was established and chaired by the Governor of Southern Rhodesia
4. In 1953 the National Gallery Act was promulgated
5. Initially there was only a National Gallery in Harare. The National Gallery of Zimbabwe in Bulawayo opened in 1972 and the National Gallery of Zimbabwe in Mutare in 1999

FINDINGS AND OBSERVATIONS

1. The National Gallery Act is a relic of colonial Rhodesia that needs to be repealed and replaced by a new one
2. Much space in the act is devoted to the establishment and constitution of the Board and liability of members, with little space being given that relates to the functions of the Gallery
3. The Act is silent on the training of artists in various genres
4. The Act is not pro-art
5. The language of the Act is not user friendly, especially to artists – the key stakeholders



6. The Act gives the Minister responsible too much power in the appointment of members of the Board and in the implementation of the Act in general. The responsible Minister needs only to consult the President
7. The Act has no scope for the promotion and presentation of art throughout the country, as the Gallery is intended to serve only Mutare, Bulawayo and Harare. There are no activities or programmes that show the National Gallery is responsible for circulating art exhibitions throughout the country

RECOMMENDATIONS

1. Repeal the act and replace it with a new one
2. Ensure the new act will involve a parliamentary committee in identifying people to be appointed to the Board
3. The new act should give more space, not to the establishment and constitution of the Board, but to the functions of the Gallery
4. The new act should provide for the training of artists in various art genres
5. The new act should take into consideration the UNESCO Conventions that Zimbabwe has ratified
6. The new act should be translated into indigenous languages
7. All acts to do with the arts and cultural industries should be read in conjunction with each other
10. The people to be appointed to the Board of the National Gallery should include those with relevant skills and experiences in different genres of art
11. The new act should ensure that the Board is accountable to stakeholders and should be open to public scrutiny.



Review of the National Arts Council of Zimbabwe (NACZ) Act (CAP:25:07)

Research report by Pathisa Nyathi

Summary

FINDINGS

1. The National Arts Council of Zimbabwe Act came into being in 1985 after the repeal of the National Arts Foundation of Rhodesia Act (1971), which was characterized by limited representation
2. The process and tasks of repealing the National Arts Foundation of Rhodesia Act was led by the Ministry of Education and Culture but, by the time it was repealed and the National Arts Council of Zimbabwe Act promulgated in 1985, culture was under the Ministry of Youth, Sports and Culture
3. Although at the inauguration of the Board of NACZ in 1985, the Minister responsible for the Act identified the role of the NACZ as the promotion of all culture, the distribution of funds to registered arts organisations and the democratic and efficient management of culture, the NACZ Act did not coordinate and integrate several aspects of arts and culture under a number of other ministries
4. The NACZ Act was crafted to achieve a dual purpose: artistic and political objectives – to replace the racially driven National Arts Foundation and to create district and provincial councils
5. The main purpose of NACZ Act was 'to improve knowledge, understanding and practice of the arts – music, dance, drama, folk writing, literature, painting, photography, film, sculpture, crafts, graphic or plastic arts, or any other art form or culture form approved by the Board'
6. Failure to perceive the arts as an industry meant that the Act did not regard artists as workers. As a result there were no efforts to bring in legislation and protocols relating to workers
7. The Act does not appreciate how the wider environment impacts on the arts. The Act ignores intellectual property, research and documentation



Research on Legal Instruments on Arts & Culture in Zimbabwe

8. The Act concerns itself with registered organisations. Any organisation that is not registered can choose to ignore the National Arts Council ('Therefore the NACZ is using imagined authority')
9. The Act does not meet the needs of growing cultural industries
10. The NACZ Act has had no meaningful impact, largely due to lack of capacity, limited scope of operations and misdirected energies
11. The NACZ Act has failed to attend to the basics that should be in place to ensure minimum growth and development in the arts
12. The NACZ Act mentions the provision of finance to support artistic activities of registered organisations. In reality, funding has been non-existent
13. The NACZ Act has remained in the statutes without any amendments since 1985. The national, regional and international arts scenario has changed markedly yet the Act has not walked in tandem with the new arts situation
14. Given the governance tradition of the time the Act was drafted, it comes as no surprise that a lot of emphasis is on control, regulation and supervision

RECOMMENDATIONS

1. The amendment of the NACZ Act should await completion of the new national constitution and the national cultural policy so that the amended Act incorporates aspects from the two documents
2. Participation and consultation should precede the drafting of a new act/amendment of the Act so that views and expertise of stakeholders are taken on board
3. Constant review should be incorporated into the Act to avoid it becoming obsolete. World trends in the arts should be kept track of
4. The NACZ Act should be amended to ensure that it is aimed at growing, vibrant and viable cultural industries. Policies and arrangements available to general industry/investment should be availed to the cultural industries
5. Before a single ministry for the arts and culture becomes a reality there should be coordination of the arts
6. Ratified UNESCO Conventions in the field of culture should be reflected in the amended NACZ Act



7. The amended NACZ Act should take on board the following critical elements that impinge on the enabling environment that will ensure the growth and development of the arts and cultural industries:

- Funding and financing
- Infrastructure development and maintenance
- Intellectual property regime (matters of copyright and infringement of same and related corrective measures)
- The media
- Institutional capacity building
- Research and documentation promotion/awareness raising
- Coordination and integration
- Regulation and standard setting

Research Report

"Rhodesia was a society run entirely for white pleasure and convenience on the back of the labour of the black majority," Philip Barclay, British Diplomat to Zimbabwe, 2006-2009.

Introduction

Rhodesia came into being following military conquest in 1890-93. The resultant state was run on racial lines with the ruling whites enjoying all the privileges in all spheres of life: political, economic, social and cultural. The above quotation aptly describes the Rhodesian scenario. African arts and culture were downplayed, despite the fact that Africans constituted no less than 90% of the population. Western art forms enjoyed financial, organizational and infrastructural resources; indeed they enjoyed an enabling environment that allowed them growth and development.

By 1971 the white authorities created through statute a National Arts Foundation(NAF), chaired on the eve of independence in 1980 by Brian O'Connell, whose council membership was 100% white. The executive officer for



Research on Legal Instruments on Arts & Culture in Zimbabwe

the NAF was Derek Huggins, a former detective inspector in the Rhodesian police force. He was appointed with effect from 1 May 1975. There was the National Arts Council of Rhodesia, which in 1976 was chaired by Michael J. Hill of Bulawayo. At the local level there were several urban-based arts councils such as the Salisbury Arts Council (chaired by Harold Marsh), the Bulawayo Arts Council (chaired by Michael Bullivant) and the Fort Victoria Arts Council, inter alia.

Parallel to these whites-only arts councils there were blacks-only arts councils operating in the African townships. These were formed at the time when the winds of political change began to blow. The Bulawayo African Arts Council led the way when it came into existence in 1976, Sakubva Arts Council followed next two years later in 1978. By 1979 the 'non-racial', 'non-political' and 'non-sectarian' secular body, Chapungu Arts Council, covering Gwelo (now Gweru) and the environs came into being. David Walker of Chapungu Arts Council said, "I have recently made it my aim to start African arts councils catering for blacks."

The winds of change were beginning to blow for all to feel them, but the whites responded through the creation of racially segregated African arts councils. The parallel structures existed beyond independence. Government then came in to create new arts councils. The result was the existence of two separated arts councils using the same names. There were two Salisbury Arts Councils. The government-created body was chaired by Doctor Henry Moyana. In Bulawayo there was the old Bulawayo Arts Council and the new government-created Bulawayo Arts Council chaired by Memo Khumalo. This researcher was a member of this arts council created in 1981.

The whites reacted with racially infused tirades, "Leave our arts alone. Bulawayo Arts Council is a completely independent and voluntary body. The government would have no rights whatsoever to dissolve us," screamed Michael Bullivant, chairman of the Bulawayo Arts Council.

However, the Deputy Chief Cultural Officer in the Ministry of Education and Culture, John Mapondera, was undeterred in his drive to transform the arts and culture sector. "Government is to take an active role in the promotion of arts and cultures." Derek Huggins was 'confused' at the moves that Mapondera was making. More government officials made utterances in support of the main thrust of government. "Now that it is Zimbabwe, everybody shall follow us and our black culture has to lead," said Ephraim Chamba of Media Associates.



Research on Legal Instruments on Arts & Culture in Zimbabwe

The Deputy Permanent Secretary in the Ministry of Education and Culture NRM Tanyongana said, "In the past no Africans were members of the arts councils. Their arts did not receive any attention from the previous regime." Mapondera went on to say the old arts councils such as the Salisbury Arts Council were ".....unknown to 99. 5% of Salisbury." Reaction from the privileged whites was quick, "The imposition by government of a second arts council upon Salisbury is confusing and illogical."

Sensing there was no going back, the old whites-only councils capitulated and abandoned their former names, now taken over by rival government-initiated arts councils. The old Bulawayo Arts Council became Performing Arts Bulawayo. The influential and combative Bullivant reflected the attitudes of many whites, "We are committed to the pursuit of Western art forms and the exploration of areas of contact between Western and African cultures." It was Bullivant again who said, "The idea of racially constituted arts councils was anathema in Zimbabwe, but European and African cultures were so different that there would always be a place for groups devoted largely to one or the other." In Harare the Salisbury Arts Council assumed a new name, the Arts Association of Harare.

In the fullness of time the whites-only arts associations withdrew into racial cocoons that existed outside of mainstream Zimbabwean arts and culture. Government pushed ahead with the programme of de-racialising the arts and culture sector within the context of the new political order. The culmination of those efforts was the disbandment of the National Arts Foundation. This could only be done through the repeal of the National Arts Foundation Act. In its place came the National Arts Council of Zimbabwe Act, which was the culmination of the National Arts Council of Zimbabwe Bill, gazetted on Friday 25 March 1985.

It should be apparent, given this background information on the arts and culture situation in Rhodesia and the early days in Zimbabwe that government's preoccupation was not wholly to grow and develop the arts, but to deal with, and replace, the racially segregated arts sector in the new state. Government action was both necessary and inevitable. It was expected that the piece of legislation that created the National Arts Council of Zimbabwe would soon be replaced by one that sought to grow and develop the arts sector. But lo and behold, the 1985 'Independence Act' has not been repealed. The national, regional and international arts scenarios have changed markedly and yet the Act has not walked in tandem with the new arts situation.



Historical Background to the Act

From the introduction given above it is clear there has been continuity in the manner the arts have been run. The National Arts Foundation and its Council existed into the independence era. However, government was studying the situation and soon launched a strategy to bring change within the racially biased arts sector. The Ministry of Education and Culture was the government institution tasked with the responsibility of transforming the arts sector. A number of interventions were lined up which would, ultimately, lead to the repeal of the National Arts Foundation Act and replace it with the National Arts Council of Zimbabwe Act on 4 December 1985.

John Mapondera was the point man within the Ministry of Education and Culture tasked with the onerous job of transforming the arts sector. A sub-committee was created to oversee the re-organisation of the existing arts councils. JB Nyoka was part of the committee. In order to have a feel of the goings-on within the district arts councils, the Ministry appointed cultural officers who attended their meetings. What was meant to be moves by government to combat racism were seen as interference and control. "...They wish the arts, like everything else, to be under their control," argued some whites in the arts sector.

Once the government had officers attending the meetings of arts councils, it appointed on 1 June 1981 Basil Chidyamatamba, a graduate from Kwanongoma College of Music in Bulawayo, as co-executive officer of the National Arts Foundation. Chidyamatamba, who was with the Harare City Council as the public relations officer for the performing arts, was also the organizer of African arts in Zimbabwe.

Now with a foothold in the district arts council and the National Arts Foundation of Zimbabwe, government moved swiftly to appoint blacks to the National Arts Council of Zimbabwe. The members were John Mapondera, Jacob Ndlovu, Richard Mberwa, Musaemura Zimunya, Memo Khumalo, Agrippa Mandivenga and Adolph Chikasha. These served alongside Hugh Philips, Brian O'Connell and Paul Pretorius.

All these initial moves that preceded the crafting of the National Arts Council of Zimbabwe Act took place under the guidance of Dzingai B Mutumbuka as Minister of Education and Culture. Moves towards enactment of the new Act took place under the auspices of the Ministry of Youth, Sport and Culture. David Karimanzira was then the government minister and it was he who guided the Arts Council Bill



Research on Legal Instruments on Arts & Culture in Zimbabwe

through all the stages in Parliament. The proposed Bill was then drafted and was gazetted on 25 March 1985. The readings of the Bill were done in the second half of the year. The first reading went through Parliament and the second reading was scheduled for 20 November 1985.

The new National Arts Council of Zimbabwe Act came into effect on 4 December 1985. The old National Arts Foundation Act, characterized by limited representation, was repealed and effectively replaced by the new National Arts Council of Zimbabwe Act of 1985. During a function in Harare where the new Board was launched, Minister Karimanzira identified the role of the National Arts Council as the promotion of all cultures, distribution of funds (to registered arts organizations) and the democratic and efficient management of culture.

Government put together a governing board for the National Arts Council. The board's chairman was John Mapondera with Tafataona Mahoso as director. The other board members were the following: H. Muchapondwa, F. Chikuwira, M. Khumalo, G. Chidawanyika, J. Kaseke, D. Rockingham-Gill, M.P. Patel, A. Chikasha, A. Mandivenga, S. Gatsi, E. Musumhi, R. Mutokonyi, P. Pretorious, R. Mbwera, B. Nyamupingidza, and B. Zulu.

A year before the first board's term expired, Mahoso, the director of the National Arts Council, was suspended and forced to go on a two and a half months forced leave. He was accused of "...unwarranted criticism of government in international and local fora." There were, at the time, allegations that documents at the NACZ offices were destroyed. When Mahoso was on suspension Ketiwe Chiamba acted in his place.

Meanwhile, on 13 March 1992, a new board chaired by Solomon Mutsvairo was ushered in with Peter Gwanzura as deputy Chairman. The other members of the board were as follows: Roy Lander, B.V. Nagar, Alyson Davidson, Simon Chikwavaire, Peter Joyce, John Deary, D.V. Rockingham-Gill, and Kennedy Matimba. At the time Witness Mangwende had become the Minister of Education and Culture. Mahoso, who had been suspended in April 1991, formally resigned as director. Chifamba, suspended in January 1992, was asked to go on leave and later had her suspension extended.

Following the promulgation of the National Arts Council of Zimbabwe Act, the district councils were established. These were later followed by the creation of the provincial arts councils and by 1987 the Matabeleland North provincial council was being formed. With time, both the district and provincial arts councils fizzled



Research on Legal Instruments on Arts & Culture in Zimbabwe

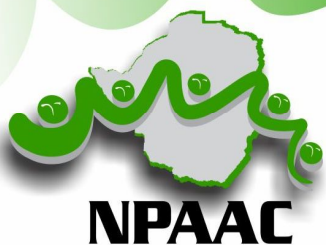
away or had not been formed at all. The National Arts Council of Zimbabwe worked through the provincial arts offices staffed by the provincial arts managers assisted by one officer. Student interns from universities that offer arts and culture in their undergraduate studies assisted in the work.

General Objectives and Principles of the Act

Viewed against the political background, the National Arts Council of Zimbabwe Act should be perceived as a tool crafted to achieve a dual purpose – artistic and political objectives. As the new nation moved from the colonial past it had to repeal colonial pieces of legislation and draft new ones to be in line with the new socio-political order. Some colonial Acts took longer to be repealed and replaced by new ones. The National Arts Council of Zimbabwe Act was one such piece of legislation that only came into being towards the end of 1985. The new Act should be seen as seeking to achieve political ends but at the same time encompassing a thrust in the arts.

The immediate aim of the new Act was to repeal the National Arts Foundation Act, which had limited representation of the Zimbabwean population. The old Act was said to be “arbitrary and subject to abuse”. The envisaged new Act was thus meant to replace the racially driven National Arts Foundation of Rhodesia Act. On that score, the National Arts Council of Zimbabwe Act had a political aim designed to achieve the principle of racial equity.

It was also the aim of the new Act to achieve democratization. John Mapondera, the Deputy Chief Cultural Officer in the Ministry of Education and Culture did point out that the old Act and its councils was known to only 0.5% of the population (the whites). Part IV of the Act provided for the creation of district and provincial arts councils. Whereas during the colonial era the arts councils were restricted to urban centres, the new Act envisaged the creation of arts councils in all of the country's districts, both rural and urban. Each province was to have its own council. Through this process of democratization, more persons would participate in the arts, both at the creative and consumption levels. The political thrust was evident during the creation of the district arts councils in that they were not given operational constitutions. Each council had to come up with its own terms of reference and draft its own constitution. For example, when the Bulawayo Arts Council came into being, a committee chaired by Felix Moyo was created to deal with the drafting of the constitution.



Research on Legal Instruments on Arts & Culture in Zimbabwe

Part VI of the Act dealt with financial issues. The thrust was not just the funding of arts organisations but also the need to keep clear accounts to be audited annually. The district and provincial arts councils were expected to adhere to the laid down financial procedures. Funding for the National Arts Council was to come from various sources, such as Parliamentary appropriations, levies and other payments made under the Act, grants, donations or bequests, loans raised with the approval of the Minister, income accruing from investments and any other legal sources.

Part V of the Act made provisions for the registration of arts organizations. It spelt out the procedures and conditions for registration. Later a Statutory Instrument was produced to deal more fully with matters of registration and re-application in cases where the original certificate of registration had been lost.

At about the time when the Act was coming into effect its purpose was given as, "...to improve knowledge, understanding and practice of the arts." The arts disciplines were given as embracing music, dance, drama, folk art, creative writing, literature, painting, photography, film, sculpture, crafts, graphic or plastic arts, or any other art form or culture formerly approved by the Board. With regard to the arts disciplines, the aim was to effect presentation, performance, execution, and exhibition of any art, art form or culture form. The National Arts Council was tasked with the promotion of all cultures, the distribution of funds and improvement of management capacity. These functions are spelt out in Part III of the Act.

Prioritised Cultural Policy Issues

Policy is related to both mission and vision. Where targets and goals have been set the challenges encountered in meeting the goals must be identified so that appropriate strategies and measures may be formulated and implemented. That process will involve setting of priorities and assigning resources to ensure implementation of designed action plans. It may be necessary to look closely at the total environment within which the policy operates. The aim is to craft an enabling environment that will facilitate implementation of identified strategies and measures.

The arts constitute what may be termed cultural or arts industries which are at the heart of the creative economy. The latter should be seen as an integral part of the national economy, and must thus contribute to the national Gross Domestic Product (GDP). An industry has particular attributes and these must apply to the arts sector too. The value addition chain must be identified so that intervention



Research on Legal Instruments on Arts & Culture in Zimbabwe

strategies are directed at various stages of the value chain. Within the arts or cultural industries the critical stages in the value addition chain are creativity (mental generation of an idea), production (translation of an idea into a consumable form), promotion, marketing, packaging, branding, (creating demand for consumption of the product), distribution, dissemination, trade, sales and finally consumption. The cultural policy should target all these stages starting with the artist himself/herself with a view to growth and development of the arts/cultural industries.

All the stages cited above require a supportive environment if the chain is not to develop a weak link, which may threaten the whole chain. The chain is as strong as its weakest link. This is in recognition of the interlinked and interwoven nature of the entire arts value addition chain links. The following are some of the critical elements that impinge on the enabling environment that will ensure the growth and development of the arts/cultural industries: Funding and financing (resourcing), education and training, monitoring and evaluation, audience and market development, infrastructural development and maintenance, intellectual property regime (matters of copyright and infringement of same and related corrective measures), the media, institutional capacity building, research and documentation, promotion/awareness raising, co-ordination and integration and finally regulation/standard setting.

Against this idealistic background/check list, we can then look at what the Act has by way of providing policy guidelines within the cultural/arts industries. Part III of the Act deals with the functions of the National Arts Council, "...to provide, develop, improve the knowledge, understanding and practice of arts in Zimbabwe by encouraging the teaching and practice of the arts, and their presentation, performance, execution and exhibition to the public."

There is a further function, namely, "...To advise and co-operate with the government, local authorities, registered arts organizations, or any other societies, organizations, associations, groups, or other bodies, in any matter concerned directly or indirectly with the arts and the teachings and practice thereof."

Part IV of the Act deals with the establishment of district and provincial arts councils. This meets the participation requirement inherent in any sound cultural policy. Parts V and VI relate to registration and financial matters as pointed out above. Clearly, the cultural policy as given above is not well articulated. This is expected of an Act that not only sought the growth and development of the arts industries, but equally sought to achieve political aims, namely to loosen the racial



Research on Legal Instruments on Arts & Culture in Zimbabwe

grip of whites on the arts sector. Promotion comes out clearly as a policy thrust. Indeed, funding was generous in the period both before and after the promulgation of the Act.

Beyond the aim to, "...foster, develop, and improve the knowledge, understanding and practice of the arts in Zimbabwe," the other focus is on regulation of the arts organizations. The remaining aspects touch on the Board functions, repeal of the old Act, and matters relating to the structuring of the Council. Given the governance tradition of the time, it comes as no surprise that a lot of emphasis is on control, regulation and supervision.

Weaknesses and Strengths of the Act

On balance, the Act has more weaknesses than strengths. Drafted after the birth of a new nation the Act sought to align the arts with the material situation obtaining. The arts per se were not given the consideration they deserved. From the language used it is easy to tell that the overall perception and knowledge of the arts was limited. The arts were not viewed as an industry that could make a meaningful contribution to the country's Gross Domestic Product. In the absence of an informed appreciation of the arts, a coherent Act on the arts was unlikely. There was clear lack of appreciation of the interrelatedness between the arts/culture, economy and history.

Be that as it may, there are strengths that are identifiable in the Act. Promotion of the arts does come out clearly. Funding seems to relate in the main to the provision of finance to support artistic activities of registered arts organizations. Funding would be extended to registered organizations on the recommendation of the board committee tasked with that responsibility. It is worth noting that the concept of funding was not limited to financing only. Indeed, that is how things should be. What is critical is to resource an organization in more ways than one, e.g. human resourcing, capacity building, monitoring and evaluation, among others. The Act does cover "other forms of assistance to facilitate 'practice' of the arts".

The other strength of the Act lies in democratization. Whereas the old Act served the interests of whites and the arts were confined to urban areas, the new Act allowed for the creation of district and provincial arts councils throughout the country. More people were to be reached and afforded the opportunity to participate in the arts. There was an added advantage in that the people within a



Research on Legal Instruments on Arts & Culture in Zimbabwe

given locality would promote the arts genres of their choice. Local arts stood a greater chance of receiving attention.

It is unlikely that the Act was guided during the drafting stage by a comprehensive cultural policy, nor did the supreme law of the country shed light on the arts. However, there were some international arts/culture conventions that were already in existence, such as the Rome Convention and the Berne Convention. Unfortunately the Act is not illuminated by international and Africa-wide standard setting protocols and conventions. The Act was obsolete from the very day it was crafted. The language used in the Act brings out the fact that it was not steeped in the current trends pertinent to the arts/cultural industry.

Failure to perceive the arts as an industry meant the Act did not regard artists as workers. As a result there were no efforts to bring in legislation and protocols relating to workers. If that were done, issues such as working conditions and terminal benefits would have been alluded to. International Labour Organisation (ILO) statutes were not invoked to protect the interests of artists.

The scope of cultural policy issues was circumscribed. Perhaps it was never appreciated how important the impact of the wider environment on the arts is. Just as an example, the intellectual property regime was never taken on board. Research and documentation were not incorporated. Constant review was not spelt out. As a result, the Act has remained on the statutes without any amendment since 1985. The world of the arts has marched on. The 2005 UNESCO Convention on the protection and promotion of the diversity of cultural expressions is critical to the development of the arts. The Act has not been updated to bring on board new ideas concerning the arts/cultural industries.

When initial moves to transform the arts sector were undertaken by John Mapondera and his team, culture was in the Ministry of Education. By the time the Bill was passed into Act in 1985, culture was in the Ministry of Youth, Sport and Culture. However, not all aspects of culture were housed within the Ministry of Youth, Sport and Culture. Several aspects were found within a number of other ministries. There were no efforts in the Act to co-ordinate and integrate the disparate aspects spread throughout the other ministries.

Civil society was not given space within the Act where it and government would collaborate to grow and develop the arts. Some civil society organizations are well resourced to play a meaningful role within the cultural industries sector.



Recent Policy Issues and Debates

It is important to draw a line between policy issues that are derived from the Act and issues that have been raised in the various arts fora. The issues themselves need unpacking as it is clear from the interviews that I carried out that artists know very little and, in some instances, nothing at all, about the documents pertaining to the arts industry. Initially, I enquired about the artists' knowledge of the National Arts Council of Zimbabwe Act. When a clear pattern emerged, I then included knowledge of other documents. Specifically, I asked if the artists knew about the Cultural Policy, the Draft Constitution, the Copyright and Neighbouring Rights Act and the UNESCO conventions. The response was the same, total lack of working knowledge of the documents.

It might be prudent to give some of the responses to the National Arts Council of Zimbabwe Act. "I don't know about the Act. I have never seen it." "I may have seen it, I can't remember." "I heard about it during a workshop on intellectual property." "I heard about it three years ago during a workshop organized by Nhimbe Trust." "Mbijana (just a little)." "Yes, I saw it sometime ago. You can't bump into it. One has to look for it, in order to get it." "How does the Council assist? We go to them when there is a problem."

Yet others would not differentiate between the Act and the operatives tasked to administer the Act, that is, the National Arts Council of Zimbabwe management. "Do they know we exist?" What is clear therefore is that when artists hardly know about the Act, one should not expect much by way of issues raised about the Act from those in the arts community. Even those who said they had seen the Act had not studied and internalized it. Issues can only emerge when artists have studied the Act.

Be that as it may, further probing did yield some topical issues, though not necessarily emanating from the Act. In fact some of the issues were useful pointers of issues that the Act ought to be addressing. The issues were thus useful in identifying the weaknesses of the Act and providing pointers of what should be taken on board when the Act is finally amended.

The Act concerns itself with registered organizations. Any organization that is not registered can choose to ignore the Arts Council. As one informant put it, "The Council is using imagined authority." This may be an anomaly that requires rectification when the Act is amended. There was an observation by some interviewees that matters pertaining to the arts are found in various ministries.



Research on Legal Instruments on Arts & Culture in Zimbabwe

The arts reside in no less than 11 ministries. In all the ministries the arts are secondary. In this scenario the arts will never get the attention they deserve in terms of human resources and budgetary requirements. In the absence of a single ministry for the arts there should at least be some sort of co-ordination of the arts. The real problem, it would seem, is the perception of the arts. Very few regard the arts as an academic discipline. The majority hold the 'ululation view' of the arts, something for those who could not make it at school or college. This 'school dropout view' will not lift the status of the arts. A lot of advocacy is called for.

Funding is another issue that emerged during the interviews. There was a general lament of the status of funding of the arts organizations by the National Arts Council. Funding was said to be either minimal or non-existent. There was a call to capacitate the Council financially so that it can carry out its mandate of funding registered arts organizations. There was an observation that the Council is engaging in projects for which it seeks funding from the same quarters that the arts organizations go to seek funding for their own projects and programmes. There was a feeling that the Council should concern itself more with policy formulation and taking that policy, through awareness campaign programmes, to the artists.

Whereas the artists may not be concerning themselves with the various documents relating to the arts, they are 'busy with the arts'. Their challenge is the markets for their finished products and services. Some felt this is where the Council should come in, to assist in audience or market development. This is an important realization on the part of the artists that there is need to do more than being 'busy with the arts'. The finished product must be consumed. The products and services must, at the end of the day, translate to food on the table. Some applauded the production of the artists' directory, while others felt it was not detailed enough to serve as a reference guide on where artists and/or goods and services are to be found. "People just bump into this place by accident," said an interviewee who works from the National Gallery of Zimbabwe in Bulawayo. Related to this is the need to develop websites where the artists and their works can be showcased and marketed. Exchange programmes would also assist to enable artists to keep abreast of practices elsewhere. Through that kind of arrangement they may boost their creative talent and enhance the value addition efforts within the cultural industries.

One of the interviewees lamented the fact that the Council is not felt at local level. All there is, are the provincial offices of the Council in the provincial capitals. The understaffed provincial offices lack the requisite resources to get down to the



Research on Legal Instruments on Arts & Culture in Zimbabwe

grassroots. This is what the Act sought to avoid. By creating the district and provincial arts councils the Act sought to maximize participation.

The government structures closest to the people are the local authorities. Before and soon after independence the City of Bulawayo, for example, was active in the growth and development of the cultural industries. There was a lot of arts related infrastructure, such as community halls and libraries. Many artists were groomed in those days and today they are the pillars of the arts sector in Bulawayo. All that has gone. There is need for the local authorities to be capacitated to channel some resources towards the arts. In fact, the local authorities should craft their own cultural policies, which they should implement by allocating both human and financial resources to see their translation into action plans.

Impact of the Act on the Cultural Industries

Though the Act did not specifically relate to the cultural industries, it was understood to refer to them. It was further understood that the Act was to grow and develop the industries, in addition to achieving some political ends. Constant review, undertaken by an identified unit should have been in-built in the Act to check whether or not it was achieving its desired goals. If not, evaluation would indicate the problematic areas and proffer corrective measures, including amendment of the Act to bring it in line with current ideas and practices.

The impact of the Act on the cultural industries was assessed from the point of view of three groups: government, the artists and the researcher.

The Government View

For the view of government I carried out a telephone interview with Reverend Paul Bayethe Damasane, the Principal Director in the Ministry of Education, Sport, Arts and Culture. The Act, in Damasane's view was not fully implemented, largely due to the prevailing economic situation. The National Arts Council is not visible in either the districts or provinces, despite the Act being explicit that there should be such structures at the two levels.

The other observation was that the Act provided for the funding of the (registered) arts organizations but, due to a strained economy since 2000, funding has not been forthcoming at the levels perhaps envisaged in the Act.



Research on Legal Instruments on Arts & Culture in Zimbabwe

Finally, the statutory instruments that were produced fell short of having the required muscle to effect the changes that were envisaged. One of the instruments relates to export of cultural goods. The instrument does not seem to have worked; it having failed to be supported by either the National Gallery Act or the National Arts Council of Zimbabwe Act. However, the statutory instrument relating to duty waiver on imported cultural goods is working well.

The Artists' View

An earlier section in this paper dealt with the views of the artists. The visibility and hence participation presented serious challenges. The Council activities do not reach out to the grassroots. All there is, are the provincial offices of the national offices (decongested offices). The understaffed offices have no capacity to get to the grassroots. The district and provincial councils provided for in the Act do not exist.

The artists lamented the fact that funding was either non-existent or ineffectual. This, in the view of the artists, ought to be one of the major thrusts of the Arts Council if they hope to grow and develop the arts/cultural industries.

Marketing and promotion are not aggressive enough, particularly at this time when tourist arrivals are limited. Alternative ways should be found to deal with the situation. It is bad we know, but the question is what are we doing about it? Some acknowledged that the Arts Council does not have enough capacity, in terms of staffing levels and funding to undertake the onerous task of seriously marketing and promoting the cultural goods and services produced by the artists.

There was a feeling too that there should be more by way of a thrust in policy issues. Instead of getting involved with the running of projects the Council should push an agenda for advocacy, keeping abreast of policy issues and taking this information to the artists at the grassroots level.

Overall therefore, the view of the interviewed artists is that the Act has not had a meaningful impact largely due to lack of capacity, limited scope of operations and misdirected energies.



Researcher's View

Coming from the background of drafting the national cultural policy, I have a broader overview that transcends the purview of the cultural industries. This overview does help in providing aspects to take into account to apply to the cultural industries in order to tell whether or not the Act is adequate to grow and develop the arts/cultural industries.

It is useful to view the arts as an industry and unpack and apply the concept as understood in the larger national industries. This approach helps identify the individual aspects within the value addition chain. One can then apply the checklist to each and see whether the industry in its entirety is being adequately catered for to ensure growth and development. The enabling environment at national/local/ regional and international levels will have to be assessed to see how it impacts on the industry.

When all this is considered, the Act will be seen to fall far short of growing the cultural industries. The checklist, when applied to the Act, will reveal the glaring shortfalls. As pointed out, the Act was not just about the arts per se, it was also about rectifying the racial imbalances within the political sphere.

The vital question that needs to be asked is, does the Act meet all or most of the requirements of the following basic check list: funding and resourcing in general, monitoring and evaluation, education and training, audience and market development, infrastructural development and maintenance, a supportive intellectual property regime, institutional capacity development, the presence of a supportive national, regional and international legal environment, research and monitoring, constant review, policy formulation, standard setting (regulation) and the status of the arts and the involvement of the media and the corporate sector.

Given the failure of the Act to attend to the basics that must be in place to ensure minimum growth and development, my own view is that it would be an exercise in futility to attempt amendment of the Act at this point in time. The constitutional review process is still in progress. Furthermore, the drafting of the cultural policy is also in progress. Both instruments should proceed to finality before amendment of the National Arts Council Act is undertaken.



Conclusion and Recommendations

What comes clearly from this research is that the Act, from the outset, did not have comprehensive provisions inspired by a thorough understanding of the broad scope of the cultural industries. In fact, the term cultural industries does not appear anywhere in the Act. Lack of an industrial outlook in the Act led to failure to identify the aspects of the industry that would need attention if the industry were to be grown and developed.

Given that this was an 'Independence Act' that sought to redress deep rooted racism in the arts sector its tangential approach to the key arts issues does not come as a surprise. Further, it is clear that the little that was incorporated into the Act has not been fully implemented. The political drive to achieve participation through the creation of both district and provincial arts councils has not been realised.

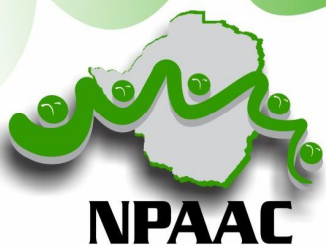
There is unanimity among government, the artists and the researcher that the Act is nowhere near the required provisions to grow and develop the arts/cultural industries. The researcher has provided a basic check list of issues that need to be embraced in an Act that has a chance of attending to the needs of artists and at the same time grow and develop the industries to a point where it makes a meaningful contribution to the national GDP and the livelihoods of artists.

It is clear too that the Act has become obsolete as it fails to tap into strides made in the arts at international level. Standard setting instruments are yet to find their way into the Act. Protocols, declarations, charters, recommendations and conventions have been drafted within the context of SADC, AU and UNESCO and Zimbabwe has ratified some of these. For the implementation of these legal instruments it is imperative that they find their way into an Act that will drive the cultural industries in Zimbabwe. A number of recommendations have been proffered in this paper. We shall however add more:

- It is important that Zimbabwe ratifies outstanding conventions, particularly those relating to the status of the artist. Ratified conventions should be reflected in the Arts Council Act
- A unit should be created to monitor the implementation of the Act and ensure adherence to the set standards

Research on Legal Instruments on Arts & Culture in Zimbabwe

- Constant review should be incorporated into the Act to avoid it becoming obsolete. World trends in the arts should be kept track of and implemented
- A meaningful information management system needs to be established to serve as a data base. Changes in the arts, for better or for worse, are tracked through an elaborate data base
- Research and development should be an integral part of the Act so that the aspects in the value addition chain may be attended to
- Marketing and promotion should be attended to, including the use of the web and other digital means
- The arts are scattered across several ministries. Before a single ministry for the arts becomes a reality, there should be co-ordination of the arts wherever they are situated
- The new Act should await completion of the national constitution and the cultural policy so that the new Act incorporates aspects from the two documents
- Participation and consultation should precede the drafting of a new Act so that views and expertise of stakeholders is taken on board
- It is critical that civil society and government strike a collaborative working relationship for the good of the arts. Parallel structures will inhibit the growth and development of the arts. Consultation between the two is of the essence
- Funding and resourcing should be given priority. Various sources of funding should be investigated. Choices will need to be made with regard to the type of funding-investment or subsidies
- Cultural attaches should be appointed to be part of the foreign embassies so that they implement some provisions of the Act. These cultural attaches will be critical in image engineering for the country and the creation of markets in the countries where they serve. Exchange programmes may be initiated at that level
- The culturesscape should have a comprehensive inventory of the artists. Related to this there should be a detailed and well thought out directory of material and non-material cultural patrimony
- The media should be capacitated to assist in the promotion of the arts. This refers to both the electronic and print media
- The staging of all-sector exhibitions and festivals will go a long way towards promoting the arts/cultural industries
- Policies and arrangements available to general industries/investment should be availed to the cultural industries
- There should be measures put in place to fight piracy



Research on Legal Instruments on Arts & Culture in Zimbabwe

- The arts should find their way into the curricula in schools, colleges and universities. Perception of the arts should change. Artists should not be seen as those who could not make it in the academic field
- Tax regimes that promote the arts should be put in place. The corporates that give grants to the arts sector should be given tax rebates.

Al in all, it should be appreciated that drafting a comprehensive arts Act is a serious business that should be approached with care, inclusivity and wide stakeholder consultation. A positive and focused vision and ideology of the arts should guide the effort. Constant monitoring and review should be inbuilt to avoid the Act becoming obsolete.

References

Books and Unpublished Sources

Barclay, P. (2011) *Zimbabwe: Years of Hope and Despair*

Forbes, B. (2011) *Adapting the Wheel: Cultural Policies for Africa*, Arterial Network for Africa, Cape Town

Bos, P. R. (1999) *Biographies of Florenese Musical Instruments and their Collectors*, Royal Tropical Institute, Amsterdam

Convention of the Protection and Promotion of the Diversity of Cultural Expressions, UNESCO, 2005, Paris

National Arts Council of Zimbabwe Act (CAP: 25:07)

Pocket Guide to South Africa: Arts and Culture (2010/11)

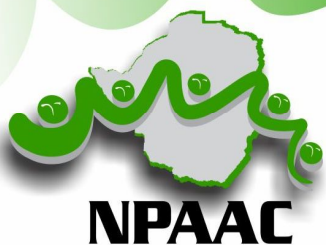
Ngwane, G. M. *Towards an Arts and Culture Market in Africa: In memory of Nzante Pee (Cameroonian Artist) and Yvonne Vera (Zimbabwean Writer)*, in Creative Industries Sector Report, Prepared for HSRC, 15 November 2007(<http://www.gngwane.com>)

Proposed National Arts Council of Zimbabwe Act, 2009

Sibanda, N. L. (2006) *The Role of Theatre for Development in Providing Psychosocial Support to Orphans and Children Made Vulnerable by HIV/AIDS, A Case Study of Emakhandeni District in Bulawayo*. A Dissertation Submitted in Partial Fulfilment of the Requirement for the Degree of Bachelor of Arts in African Languages and Culture, Midlands State University

Statutory Instrument No. 136 of 2003

Statutory Instrument No. 87 of 2006: National Arts Council of Zimbabwe (General) Regulations, 2006[CAP 25:07]



Newspapers Consulted

The Chronicle

25/02 1982; 5/01 1982; 9/2/ 1984; 11/12/1981; 12/12/1981; 1/11/1984; 5/08/1982; 30/12/1981; 10/03/1980; 17/11/1980; 1/05/1975; 1/06/1981; 2/12/1981; March 1981; 9/03/1976; 8/10/1979; 28/04/1981; 27/02/1981; 13/10/1982; 27/05/1985; 12/12/1985; 19/11/1985; 13/11/1985; 12/12/1985; 24/06/1988; 15/11/1991; 13/03/1992; 25/07/1987; 6/02/1992; 20/04/1992.

The Herald

25/11/1981

Persons/Artists Interviewed

Baya, Raisedon, 5 April 2012, Bulawayo (Theatre/Literary Arts)

Bhebe, Charles, 4 April 2012, Bulawayo (Visual Arts)

Chifunyise, Stephen, 19 March 2012, Harare (Arts/Culture Consultant)

Chigwada-Takavarash, Emily, 21 March 2012, Harare (Visual Arts)

Chihota, Audrey, 19 March 2012, Harare (Assistant Director, Arts Development and Promotions, National Arts Council of Zimbabwe)

Chimhundu, Herbert, 22 March 2012, Harare (Pro-Vice Chancellor, Great Zimbabwe University/Arts/Culture Consultant)

Chimuka, David, 21 March 2012, Harare (Visual Arts)

Damasane, Paul Bayethe, Reverend, Tele-interview, 10 April 2012, (Principal Director, Ministry of Education, Sport, Arts and Culture)

Kumira, Brian, 3 April 2012, Bulawayo (Visual Arts)

Mhlanga, Styx, 3 April 2012, Bulawayo (Theatre)

Mpofu, Khumbulani, 4 April 2012, Bulawayo (Visual Arts)

Ndlovu, Dumisani, 3 April 2012, Bulawayo (Print Making – Visual Arts)